

New York City Department of Sanitation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing?

Pursuant to Local Law 67 of 2014, DSNY is proposing a rule that sets forth the procedure by which an illegally located publicly accessible collection bin that is removed by DSNY can be retrieved. This rule also sets forth the registration requirements for owners of publicly accessible collection bins that lawfully operate on private property.

When and where is the Hearing? DSNY will hold a public hearing on the proposed rule. The public hearing will take place 9:30 A.M. – 11:30 A.M. on January 20, 2015. The hearing will be in the 3rd floor hearing room (Room 330) at 125 Worth Street, New York, NY 10013.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DSNY through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dsny.nyc.gov
- **Mail.** You can mail written comments to DSNY, 125 Worth Street, Room 710, New York, NY 10013.
- **Fax.** You can fax written comments to DSNY at 212-788-3876.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing can sign up in the hearing room before the hearing begins on January 20, 2015.

Is there a deadline to submit written comments? The deadline for submitting written comments is January 20, 2015.

Do you need assistance to participate in the Hearing? You must contact the Department of Sanitation's Bureau of Legal Affairs if you need a reasonable accommodation because of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 646-885-5006. You must tell us by January 13, 2015.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at 125 Worth Street, Room 710, New York, NY 10013.

What authorizes DSNY to make this rule? Sections 753 and 1043(a) of the New York City Charter and Section 10-169 of the New York City Administrative Code, as amended by Local Law 67 of 2014, authorize DSNY to make this proposed rule. This proposed rule was not

included in DSNY's regulatory agenda for this Fiscal Year because the local law that authorizes this rule had not been enacted when DSNY published its agenda.

Where can I find DSNY's rules? DSNY's rules are in Title 16 of the Rules of the City of New York.

What rules govern the rulemaking process? DSNY must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Local Law 67 of 2014 (“Local Law 67”) amended §10-169 of the Administrative Code of the City of New York (“Administrative Code”), which authorizes the Department of Sanitation (the “Department”) to regulate publicly accessible collection bins. These amendments of the law were needed to combat the increase in the illegal placement of publicly accessible collection bins throughout the City. Section 10-169 of the Administrative Code prohibits the placement of publicly accessible collection bins on City property, or property maintained by the City, or on any public sidewalk or roadway (“public property”). Bins are allowed on private property if written permission of the property owner or the property owner’s designated agent is received.

The proposed rules:

- require all owners of publicly accessible collection bins placed on private property to register with the Department,
- provide the procedures for such registration,
- require owners of bins to submit an annual report to the Sanitation Commissioner that identifies the weight of the material collected during the reporting period,
- require both the owner of a publicly accessible collection bin that is on private property and the owner of the private property in which the bin is located to maintain the bin in a clean and neat condition,
- set forth a violation for the failure to register, submit an annual report to the Department, or maintain a bin,
- allow the Department to immediately remove a publicly accessible collection bin that is placed on public property and create a process for the owner of the bin to have the bin returned,
- set forth the penalties for the placement of publicly accessible collection bins on public property, and,
- set forth the removal cost and storage rates associated with the removal and storage of a publicly accessible collection bin that is illegally placed on public property.

DSNY’s authority for these rules is found in sections 753 and 1043(a) of the New York City Charter and §10-169 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Title 16 of the Rules of the City of New York is amended by adding a new Chapter 18 to read as follows:

Chapter 18

PUBLICLY ACCESSIBLE COLLECTION BINS

§18-01 Definitions. When used in this chapter:

“Commissioner” means the Commissioner of Sanitation.

“Department” means the Department of Sanitation.

“ECB” means the Environmental Control Board.

“Publicly accessible collection bin” means any outdoor container, other than any container placed by any government or governmental agency, or its contractors or licensees, that allows for any member of the public to deposit items into the container for the purpose of collection by the owner of such container.

“Public property” means any city property, or property maintained by the city, or any public sidewalk or roadway.

§18-02 Placement of Publicly Accessible Collection Bins

(a) No publicly accessible collection bin may be placed on any public property.

(b) No publicly accessible collection bin may be placed on any private property without the written permission of the property owner or the property owner’s designated agent.

§18-03 Registration Requirements

(a) By April 1, 2015, all owners of publicly accessible collection bins that are placed on private property with written permission of the property owner or the property owner’s designated agent, must register with the Department. Registration forms may be obtained from the Department’s website or by written request to:

New York City Department of Sanitation
Bureau of Recycling and Sustainability
44 Beaver Street, 6th Floor
New York, New York 10004
Attn: Collection Bin--Registration

(b) The Registration must include:

(1) the name, address and telephone number of the owner. A post office box is not an acceptable address;

(2) the location of the owner’s publicly accessible collection bin(s); and

(3) the type of material collected in the bin(s).

(c) It is unlawful for the owner of any publicly accessible collection bin to fail to register with the Department.

§18-04 Maintenance Requirements

(a) Each individual publicly accessible collection bin must prominently display on the front and on at least one other side of the bin the name, address and telephone number of the owner

of the bin. This information must be printed in characters that are plainly visible. A post office box is not an acceptable address.

(b) The owner of a publicly accessible collection bin and the owner of the private property where such bin is located must maintain the bin in a clean and neat condition.

§18-05 Annual Reporting.

(a) By August 1, 2015 and annually thereafter, each owner of any publicly accessible collection bin must submit a report to the commissioner identifying the weight of the material collected from July first of the year before the year the report is due and ending on June 30 of the year the report is due. Forms for completing the reports may be obtained from the Department's website or by written request to:

New York City Department of Sanitation
Bureau of Recycling and Sustainability
44 Beaver Street, 6th Floor
New York, New York 10004
Attn: Collection Bin—Annual Report

(b) It is unlawful for the owner of any publicly accessible collection bin to submit a report containing false or misleading information or to fail to submit a report in accordance with this section.

§18-06 Redemption Procedures for Publicly Accessible Collection Bins Placed on Public Property

(a) When the Department removes any publicly accessible collection bin placed on public property, as provided by §10-169 of the Administrative Code, provided that the name and address of the bin owner are legibly located on the bin, the Commissioner will notify the owner of the bin by certified mail, return receipt requested, that the bin was removed by the Department. The notification will state that the owner has 30 days from the date the notification was issued by the Department to redeem the bin from the possession of the Department. The notification will also contain a brief description of the publicly accessible collection bin and the location from which it was removed, as well as the address of the office at which an application to redeem the publicly accessible collection bin may be made and a statement as to applicable charges, fees and penalties due.

(b) Whenever the Department removes any publicly accessible collection bin, as provided by §10-169 of the administrative code, the bin will not be released until the bin owner has:

(1) submitted proof of ownership to the Commissioner. Proof may include, but need not be limited to, a bill of sale or a picture of the publicly accessible collection bin;

(2) exhibited proof to the Commissioner that the ECB proceedings against the owner have been disposed of and that applicable penalties, if any, have been paid; and

(3) paid the storage charge and the removal charge, as specified in the notification set forth in subdivision (a), for each day or fraction thereof since the removal of the publicly accessible collection bin, unless the owner was found not liable for violating §10-169 of the Administrative

Code by the ECB. The storage charge is \$20.00 for each of the first 3 days and \$25.00 for each additional day. The removal fee is \$280.00 per collection bin.

§18-07 Failure to Redeem Collection Bin

(a) The Department will send any collection bin, including any contents, that is not redeemed and removed from the Department's possession within the applicable time provided by this chapter to a recycling facility or otherwise provide for its disposal.

(b) If a bin owner has met some, but not all, of the requirements for redemption included in § 18-06 of this chapter, the Department may send a written request to the owner asking him or her to remove the bin from the Department's possession. The owner will have 30 days from the issuance of the written request by the Department to collect the bin. If the owner does not remove the bin from the Department's possession within 30 days of the issuance of the request, the Department will send the bin, including any contents, to a recycling facility or otherwise provide for its disposal.

§18-08 Enforcement.

(a) It is a violation for any owner to place a publicly accessible collection bin on public property. Any such violation is punishable by a civil penalty recoverable in a proceeding before the ECB of \$250.00 for the first offense and \$500.00 for each subsequent offense within any 18-month period. For purposes of this section, each publicly accessible collection bin placed on public property will be deemed a separate violation.

(b) It is a violation for any owner to attach or enclose by any means any publicly accessible collection bin to or on public property. Any such violation is punishable by a civil penalty recoverable in a proceeding before the ECB of \$500.00 dollars for the first offense and \$1,000.00 dollars for each subsequent offense within any 18-month period. For purposes of this section, each publicly accessible collection bin placed on public property will be deemed a separate violation.

(c) It is a violation for any bin owner to fail to have his or her bin prominently display on the front and on at least one other side of the bin, the name, address and telephone number of the bin owner. Any such violation is punishable by a civil penalty recoverable in a proceeding before the ECB of \$50.00 for the first offense and \$100.00 for each subsequent offense within any 18-month period.

(d) It is a violation for any bin owner, and/or the owner of the private property on which the bin is located, to fail to maintain the bin in a clean and neat condition. Any such violation is punishable by a civil penalty recoverable in a proceeding before the ECB of \$50.00 for the first offense and \$100.00 for each subsequent offense within any 18-month period.

(e) It is a violation for any bin owner to fail to submit a registration or to submit an annual report containing false or misleading information or to fail to submit an annual report required by this chapter. Any such violation is punishable by a civil penalty recoverable in a proceeding before the ECB of \$50.00 for the first offense and \$100.00 for each subsequent offense within any 18-month period.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Publicly Accessible Collection Bins

REFERENCE NUMBER: 2014 RG 080

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: November 6, 2014

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION/ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Publicly Accessible Collection Bins

REFERENCE NUMBER: DSNY-9

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the requirement for a cure period is mitigated by the extensive notice period, outreach, and guidance on compliance to the regulated individuals and communities.

/s/ Hunter Gradie
Mayor's Office of Operations

November 6, 2014
Date