

New York City Department of Sanitation
Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? DSNY is proposing to amend its rules relating to establishing a pilot program for the use of stationary on-street containers.

When and where is the hearing? DSNY will hold a public hearing on the proposed rule. The public hearing will take place via Microsoft Teams at 10:00 A.M. on November 12, 2024 using the following link:

https://teams.microsoft.com/join/19%3ameeting_NGUxYWU4MGMtZDJKMi00OTRjLTliZTMtZDdkOGE0N2NjOWQx%40thread.v2/0?context=%7b%22Tid%22%3a%2232f56fc7-5f81-4e22-a95b-15da66513bef%22%2c%22Oid%22%3a%221d3255a2-4904-4aaa-899e-3f943348182b%22%7d

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.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing mliquori@dsny.nyc.gov by November 8, 2024. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign-up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? The deadline for submitting written comments shall be November 12, 2024.

What if I need assistance to participate in the hearing? You must tell the Bureau of Legal Affairs if you need a reasonable accommodation 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 or by telephone at 646-885-4786. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by November 5, 2024.

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 and on DSNY's website.

What authorizes DSNY to make this rule? Sections 753 and 1043(a) of the New York City Charter and section 16-120 of the New York City Administrative Code Section authorize DSNY to make this proposed rule. This proposed rule was not included in DSNY's regulatory agenda for this Fiscal Year because it was not contemplated when DSNY published the agenda.

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

What laws 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

This rule sets the framework for the Department of Sanitation's ("Department") application of trash containerization requirements to residential buildings with 10 or more units, starting with a limited pilot program. This rule designates Manhattan Community District 9, encompassing West Harlem, which also includes the neighborhoods of Hamilton Heights, Manhattanville, and Morningside Heights, as the first area in which to pilot these requirements, with an expected implementation date of June 1, 2025 and end date of May 31, 2026. This area was chosen because it is one of the rat mitigation zones designated by the Department of Health and Mental Hygiene and it offers a very diverse set of building types and streetscapes. A portion of this

area was also the subject of a much smaller scale pilot program for containerization that resulted in fewer 311 rat complaints in the area.

Specifically, this rule would require all residential buildings having 31 or more dwelling units located in the pilot area to utilize stationary on-street containers (“SOSCs”) for the disposal of refuse beginning on the implementation date. Such buildings would be required to use SOSCs rather than their own rigid receptacles with tight-fitting lids because large residential buildings tend to generate too much refuse to fit in such receptacles. The Department would affix SOSCs to the roadway in the parking lane along the curb, with specific locations for each SOSC chosen in coordination with the Department of Transportation. A building with 31 or more dwelling units in the pilot area would not be required to utilize an SOSC if it receives off-street collection, including collection from inside a loading dock, or if the Department determines that such building’s location warrants a different containerization method or alternative set-out method based on its own independent analysis.

Residential buildings containing 10 to 30 dwelling units located in the pilot area would be required either to dispose of their refuse in SOSCs or to set out their refuse at the curb for collection by the Department in rigid receptacles with tight-fitting lids not exceeding 55 gallons in size. A building of this size could apply to use an SOSC during the application period (proposed to be December 15, 2024 to February 1, 2025). The Department would notify a building if the request to utilize an SOSC has been approved or denied no later than two months prior to the implementation date. If a building’s application to use an SOSC is denied, or if a building did not apply to use an SOSC in the first place, such building would have to use rigid receptacles with tight-fitting lids not exceeding 55 gallons in size or, if the Department determines that the amount of waste generated by the building warrants a different containerization method or an alternative set-out method for such building, such method as designated by the Department. Any such method would need to be in place by the implementation date.

Any building utilizing SOSCs would also be responsible for certain maintenance and cleanliness requirements. Specifically, SOSCs must be kept clean, well-maintained, and clear of trash, debris, graffiti, vermin, food scraps, and unsanitary conditions. Additionally, the area of the roadway extending one and one-half feet beyond each side of an SOSC must be kept clean. These changes are a part of the City’s commitment to cleaning up New York City streets and reducing food sources for rats. Residences and other buildings that receive Department

collection are generators of refuse, and bags of waste set out for collection on the curb, even when in compliance with existing waste setout requirements, attract rats and vermin. Requiring these buildings to utilize a specific City approved receptacle for the disposal of refuse will allow DSNY to streamline collections and further limit potential food sources for vermin. Based on the results of this rule in the pilot area, the Department will consider whether any changes are necessary prior to establishing a more permanent program in the pilot area and expanding these requirements to other parts of the city in future rulemakings.

These changes align with other City initiatives to increase the use of containers for waste storage and collection, creating cleaner, more livable, and more vibrant streets and neighborhoods across New York City.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“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. Paragraph 1 of subdivision (a) of section 1-02.1 of Title 16 of the Rules of the City of New York is amended to read as follows:

1. Except as provided in paragraph (2) of this subdivision, and in accordance with [section] sections 1-02.5 and 1-02.6 of this chapter, materials must be placed out at the curb no earlier than 8:00 p.m. on the day before scheduled collection and no later than 12:00 a.m. on the scheduled collection day;

§ 2. Paragraph 3 of subdivision (a) of section 1-02.1 of Title 16 of the Rules of the City of New York is amended to read as follows:

3. Receptacles containing solid waste that are set out at the curb must not exceed fifty-five gallons in size, except for those receptacles that are authorized for use pursuant to [section] sections 1-02.5 and 1-02.6 of this chapter;

§ 3. Chapter 1 of Title 16 of the Rules of the City of New York is amended by adding a new section 1-02.6, to read as follows:

§ 1-02.6 Stationary On-Street Container Pilot Program.

a. Definitions. For the purposes of this section, the following terms have the following meanings:

Application period. The term “application period” means the period of time in which the Department will accept applications from buildings containing 10 to 30 dwelling units to opt in to the use of stationary on-street containers in a pilot area and during which buildings containing more than 30 dwelling units must provide certain information to the Department.

End Date. The term “end date” means the date by which all buildings in the pilot area no longer have to comply with applicable containerization requirements as described in this section and by which the Department will remove any stationary on-street containers placed pursuant to this rule from the public right of way, to the extent provided by applicable law.

Implementation date. The term “implementation date” means the date by which all buildings in the pilot area must comply with applicable containerization requirements as provided in this section.

Stationary on-street container. The term “stationary on-street container” means a container for the storage and collection of residential waste that the Department procures from an authorized vendor and that the Department, in consultation with the Department of Transportation, places in the public right of way.

b. The following chart lists the pilot areas and the application periods, implementation dates, and end dates for such pilot areas.

<u>Pilot Area</u>	<u>Application Period</u>	<u>Implementation Date</u>	<u>End Date</u>
<u>Manhattan Community District 9</u>	<u>December 15, 2024 to February 1, 2025</u>	<u>June 1, 2025</u>	<u>May 31, 2026</u>

c. Residential buildings containing 31 or more dwelling units.

1. Beginning on the implementation date and continuing until the end date, as specified in subdivision b of this section, all residential buildings containing 31 or more dwelling units located in the pilot area must utilize stationary on-street containers for the disposal of refuse for collection by the Department.

2. Notwithstanding paragraph 1 of this subdivision, a building containing 31 or more dwelling units located in the pilot area that receives Department collection, or is applying to receive Department collection, is not required to utilize a stationary on-street container if:

(a) such building receives off-street collection, including collection from inside a loading dock; or

(b) the Department determines that such building's circumstances warrant a different containerization method or alternative set-out method. The Department will make such determination based on its own independent analysis and inform such building of the method that such building must utilize no later than two months prior to the implementation date specified in subdivision b of this section. Any such method must be in place by the implementation date specified in subdivision b of this section.

3. During the application period, all residential buildings containing 31 or more dwelling units located in area must provide building ownership and applicable contact information using a form available on the Department's website.

d. Residential buildings containing 10 to 30 dwelling units.

1. Beginning on the implementation date and continuing until the end date, as specified in subdivision b of this section, any residential building containing 10 to 30 dwelling units located in the pilot area must set out its refuse for collection by the Department at the curb in rigid receptacles with tight-fitting lids not exceeding fifty-five gallons in size unless such building is directed by the Department to set out its refuse using an alternative method pursuant to paragraph 2 of this subdivision or approved by the Department to use a stationary on-street container pursuant to paragraph 3 of this subdivision.

2. If the Department determines that the circumstances of a building containing 10 to 30 dwelling units located in the pilot area that receives Department collection, or is applying to receive Department collection, warrant a different containerization method or an alternative set-out method, such building must use such method. The Department will make such determination based on its own independent analysis and will inform such building of the method that such building must utilize no later than two months prior to the implementation date specified in subdivision b of this section. Any such method must be in place by the implementation date specified in subdivision b of this section.

3. Opt-in requirements for buildings containing 10 to 30 dwelling units. An owner of a building containing 10 to 30 dwelling units located in the pilot area or such owner's agent may apply to the Department during the application period, in accordance with the requirements in

paragraph 4 of this subdivision, to place such building's refuse in a stationary on-street container for collection by the Department.

(a) The Department will review any such request for the use of stationary on-street containers submitted during the application period.

(b) Applicants denied the use of stationary on-street containers will be notified in writing no later than two months prior to the implementation date specified in subdivision b of this section. Such buildings must set out their refuse at the curb for collection by the Department in rigid receptacles with tight-fitting lids not exceeding fifty-five gallons in size in accordance with paragraph 1 of this subdivision unless the Department determines that the building should use an alternative containerization or set out method pursuant to paragraph 2 of this subdivision.

(c) Applicants approved by the Department to utilize stationary on-street containers will be notified in writing no later than two months prior to the implementation date specified in subdivision b of this section and must set out refuse in such containers beginning on such implementation date and continuing until the end date specified in subdivision b of this section.

4. Application requirements. The owner of a residential building containing 10 to 30 dwelling units in a pilot area, or such owner's agent, that seeks to opt in to setting out such building's refuse for collection by the Department in a stationary on-street container pursuant to paragraph 3 of this subdivision must submit an application to the Department in a form and format determined by the Department during the application period. Such application must include:

(a) the name and contact information of the owner of the building, and such owner's agent, if applicable;

(b) the number of dwelling units in the building;

(c) an attestation that the owner of the building, or such owner's agent, agrees to place all refuse in the stationary on-street containers if the application is approved; and

(d) any additional information deemed necessary by the Department.

e. Change in ownership for residential buildings setting out refuse in stationary on-street containers. When a building setting out refuse in a stationary on-street container pursuant to subdivision c or d of this section has a change in ownership, the new owner, or such owner's agent, must notify the Department immediately upon such change in ownership. Such notice to the Department must include the name and contact information of the new building ownership and may be submitted using a form available on the Department's website.

f. The requirements of paragraph 1 of subdivision c and subparagraph (a) of paragraph 1 of subdivision d do not apply to a building if the stationary on-street container assigned to such building has been temporarily removed at the direction of the Department or the Department of Transportation or has otherwise become inaccessible through no fault of the building's owner or agents. In the case of temporary removal or inaccessibility, such building must set out its refuse in a manner directed by the Department.

g. Maintenance requirements for stationary on-street containers. Each residential building disposing of refuse in a stationary on-street container pursuant to subdivision c or d of this section must ensure that such stationary on-street container is kept clean, well-maintained, and clear of trash, debris, graffiti, vermin, food scraps, and unsanitary conditions. Such residential building must also ensure that the area of the roadway extending 1 1/2 feet beyond each side of such stationary on-street container is kept clean.

**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: Rules Relating to Pilot Program for Use of Stationary On Street Containers

REFERENCE NUMBER: DSNY-45

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

October 9, 2024
Date

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: Rules Relating to Pilot Program for Use of Stationary On Street Containers

REFERENCE NUMBER: 2024 RG 097

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: October 9, 2024