

**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION**

**NOTICE OF ADOPTION OF FINAL RULE GOVERNING THE
COLLECTION OF RECYCLABLE MATERIALS GENERATED IN
RESIDENTIAL BUILDINGS**

NOTICE IS HEREBY GIVEN in accordance with the requirements of Section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by section 753(a) and (b) of the New York City Charter and by sections 16-305 and 16-324 of the New York City Administrative Code that the Department adopts the following rule governing the collection of recyclable materials generated in residential buildings. This rule amends section 1-08 of Chapter 1 of Title 16 of the Rules of the City of New York. The Department published a Notice of Opportunity to Comment on the proposed rules in the *City Record* on October 19, 2010. On November 29, 2010 the Department held a public hearing on the proposed rule. Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

Section 1. Chapter 1 of title 16 of the rules of the city of New York is amended by amending section 1-08 to read as follows:

§1-08 Residential Collection Service of Designated Recyclable Materials.

(a) *Designated recyclable materials.* Pursuant to [§§16-304 and] §16-305 of the New York City Administrative Code the following materials are designated as recyclable materials for purposes of this section: metal cans, metal items, aluminum foil, aluminum foil products, containers made of glass, and plastic bottles and jugs and beverage cartons (collectively referred to as designated recyclable metal, glass and plastic); newspaper, magazines, catalogs, phone books, mixed paper and corrugated cardboard (collectively referred to as designated recyclable paper); and yard waste. This subdivision notwithstanding, designated recyclable paper and [aluminum foil and aluminum foil products] designated recyclable metal, glass and plastic items that are substantially soiled with food, paint or some other contaminating material shall not be considered a designated recyclable material.

(b) *Implementation.* The requirement that a specific designated recyclable material be source separated shall be scheduled and implemented by the Department on a [district by district] citywide basis.

(c) All designated recyclable materials shall be prepared and placed out for collection in the manner prescribed in this section on the collection day(s) that the Commissioner, in his/her discretion, designates for recycling in each recycling district.

(d) *Determination of mechanized collection service.* The Commissioner, after consultation with the owner, net lessee or person-in-charge of a residential building, may require that designated recyclable materials be collected from such building through

mechanized collection service. Factors to be considered in imposing such a requirement include, but are not limited to:

- (1) availability of space within the building or behind the property line for the storage of containers for mechanized collection;
- (2) feasibility of Department access to such containers; and
- (3) whether the quantity of designated recyclable materials generated is sufficient to warrant mechanized collection, as determined by the Commissioner.

Every building shall receive curbside collection service for [all] designated recyclable materials unless a determination pursuant to this subdivision has been made to collect such materials via mechanized collection service and such service has commenced.

(e) *Recycling containers.*

(1) *Rigid containers for curbside recycling collection service:*

(i) Rigid containers for designated recyclable paper: Designated recyclable paper may be placed out for curbside collection in rigid containers provided such containers are: (A) a minimum of 18 and a maximum of 32 gallons in capacity; (B) covered by a lid; (C) in compliance with subparagraph (2)(iv) of this subdivision; and (D) clearly labeled [three] at least two times with the words "Recycling: Mixed Paper", or some variation thereof, in letters no less than four inches in height. Alternatively, Department Mixed Paper Recycling Program Decals may be used to label containers. Labels shall appear twice on the container, on opposite sides[, and once on the lid of the container.]. The Department recommends that rigid containers for curbside recycling collection of designated recyclable paper be green in color, however, such containers are not required to be green.

(ii) Rigid containers for designated recyclable metal, glass and plastic: Designated recyclable metal, glass and plastic may be placed out for curbside collection in rigid containers provided such containers are: (A) a minimum of 18 and a maximum of 32 gallons in capacity; (B) covered by a lid; (C) in compliance with subparagraph (2)(iii) of this subdivision; and (D) clearly labeled [three] at least two times with the words "Recycling: Glass Containers, Plastic Bottles, Jugs, Beverage Cartons and Cans", or some variation thereof, in letters no less than four inches in height. Alternatively, Department Metal, Glass and Plastic Recycling Program Decals may be used to label containers. Labels shall appear twice on the container, on opposite sides [, and once on the lid of the container. In addition, Department-issued blue residential recycling containers may be used for curbside collection of designated recyclable metal, glass and plastic]. The Department recommends that rigid containers for curbside recycling collection of designated recyclable metal, glass and plastic be blue in color, however, such containers are not required to be blue.

(2) *Plastic bags for curbside collection service:*

(i) Plastic bags for designated recyclable paper: Designated recyclable paper consisting of mixed paper may be placed out for curbside collection in plastic bags, provided such bags are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) clear and not colored; [and] (C) constructed of low density polyethylene or linear low density polyethylene; and (D) comply with subparagraph (2)(iii) of this subdivision. All other recyclable paper shall be placed out for curbside collection as specified in subparagraph (h)(2)(i) of this section.

(ii) Plastic bags for designated recyclable metal, glass and plastic: Designated recyclable metal, glass and plastic may be placed out for curbside collection in plastic

bags, provided such bags are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) clear and not colored; (C) constructed of low density polyethylene or linear low density polyethylene; and (D) comply with subparagraph (2)(iv) of this subdivision.

[(iii)] (iii) Materials other than designated recyclable paper and designated recyclable metal, glass and plastic may not be placed out for Department collection in clear plastic bags unless, pursuant to subdivision (i) of this section, the Commissioner has required the use of transparent bags for purposes of monitoring compliance with this section.

(iv)] (iii) Rigid recycling containers and clear plastic recycling bags for designated recyclable paper and designated recyclable metal, glass and plastic, shall be manufactured by a manufacturer that, on an annual basis, uses at least 25% post-consumer material overall in its production of such rigid containers or bags. For the purposes of this subparagraph, "post-consumer material" shall have the same meaning as defined in subdivision (g) of §16-303 of the Administrative Code. Any written statement from the manufacturer of rigid containers or plastic bags that it has complied with the post-consumer content requirements for such containers or bags shall relieve the user of such containers or bags from liability for deviation from post-consumer content requirements.

(3) *Containers for mechanized collection service of designated recyclable paper:* Containers for mechanized collection shall be capable of being serviced by Department collection vehicles. Containers used for mechanized collection of designated recyclable paper shall be white in color. Containers shall be clearly labeled to indicate designated recyclable paper may be properly placed therein. In conjunction with its determination to provide mechanized collection service under subdivision (d) of this section, the Department may supply additional specifications for containers for mechanized collection service, and shall provide information as to where containers that comply with Department specifications may be purchased.

(f) *Responsibilities and pre-collection recycling procedures for owners, net lessees or persons-in-charge of residential buildings containing [three] four or more dwelling units—curbside or mechanized collection service.*

(1) Notice/Resident Education. The owner, net lessee, or person-in-charge of a residential building containing [three] four or more dwelling units shall be responsible for notifying the residents of such building of the requirements of the New York City Recycling Law (New York City Administrative Code, §16-301 et seq.) by, at a minimum, posting and maintaining one or more signs in the storage area(s) required by paragraph (2) of this subdivision, and in other areas as required by this paragraph. Posted signs shall set forth what materials are required to be source separated, the location of the building's designated recycling area where source separated recyclables will be stored, and how to dispose of such materials in that building, including the rinsing requirement as set forth in paragraph (g)(3) of this section. In buildings receiving curbside collection service in which residents are required to tie newspapers, magazines, catalogs, phone books or corrugated cardboard into bundles as set forth in subparagraph (h)(2)(i) of this section, such requirement shall be included on the posted sign. Posted signs shall be at least 8 1/2 by 11 inches in size and shall use lettering of a conspicuous size. The owner or person-in-charge of such residential building shall also be responsible for making available to each resident at the inception of a lease a department-issued guide to recycling. Such

recycling guide may be obtained from the department in print form or downloaded from the department's website.

In the event that the area designated for the collection and storage of designated recyclable materials is other than the regular solid waste collection area, the owner, net lessee or person-in-charge of the building shall post a sign in the regular solid waste collection area informing residents of where to bring such materials. In buildings in which the designated area for collection of recyclables is outside of the building, in lieu of posting a sign in such outside storage area, the owner, net lessee or person-in-charge of the building may post a sign or signs containing information required by this subdivision near the entrance to, or resident mailbox area(s) for, such building, or in some other public area in the building routinely visited by all building residents. In buildings in which designated recyclable materials are collected at the back entrance of individual dwelling units or at locations other than the designated storage area, the owner, net lessee or person-in-charge shall post a sign containing the information required by this subdivision at each such location. In buildings in which designated recyclable materials are collected at the front entrance of individual dwelling units, the owner, net lessee or person-in-charge shall conspicuously post on each floor a sign containing the information required by this subdivision.

(2) Proper storage. The owner, net lessee, or person-in-charge of a residential building containing [three] four or more dwelling units shall, in accordance with all applicable laws, codes and rules and regulations:

(i) designate a storage area or areas in the building that is reasonably accessible to building residents for the pre-collection storage of designated recyclable materials. If reasonably accessible storage space is not available in the building, and such space is available behind the building's property line, such space behind the property line may be designated for the pre-collection storage of designated recyclable materials;

(ii) maintain the storage area(s) and store designated recyclable materials so as not to create a nuisance or sanitary problem; and

(iii) provide a sufficient number of recycling containers in each storage area so as to prevent spillover from containers and to avoid the improper disposal of designated recyclable materials. Such recycling containers shall be clearly labeled with letters of a conspicuous size to indicate what designated recyclable materials may be properly placed therein, but are not required to comply with subdivision (e) of this section provided such containers are not placed at the curbside for collection. Storage areas need not be accessible to building residents in buildings in which designated recyclable materials are collected at individual dwelling units or at accessible locations other than the designated storage area.

(g) *Responsibilities and pre-collection recycling procedures for owners, residents, net lessees and persons-in-charge of residential buildings, mixed-use buildings, and residential buildings receiving partial private carter collection service —Curbside or mechanized collection service:*

[Residents] Owners, residents, net lessees and persons-in-charge of residential buildings, mixed-use buildings, and residential buildings receiving partial private carter collection service shall:

(1) separate from other materials designated recyclable materials that are required to be recycled and shall place such separated materials in the appropriate containers or as

otherwise directed by the owner, net lessee or person-in-charge of such building in accordance with subdivision (f) of this section;

(2) [not] place only designated recyclable materials [that are not required to be recycled] in recycling containers; and

(3) rinse and/or clean food and/or residue from metal cans, glass containers, plastic bottles and jugs, and aluminum foil and aluminum foil products prior to the placement of such materials in the appropriate containers. In addition, in buildings receiving curbside collection service for designated recyclable paper, owners, residents, net lessees and persons-in-charge shall tie newspapers, magazines, catalogs, phone books and corrugated cardboard into bundles not exceeding eighteen inches in height, [when required to do so by the owner, net lessee or person-in-charge and] when notified of such requirement as set forth in paragraph (f)(1) of this section. [In buildings in which designated recyclable materials are collected at individual dwelling units or at locations other than the designated storage area, residents are responsible for separating designated recyclable materials from non-designated materials prior to placing such materials out for collection.]

(h) *Collection procedures for designated recyclable and other materials.* The owner, resident, net lessee, or person-in-charge of a residential building shall be responsible for the following. The responsibilities set forth in this subdivision shall also apply to residents of buildings [of less than] containing three dwelling units or less in which as a matter of regular practice the resident is responsible for bringing his/her solid waste to curbside for collection:

(1) Designated recyclable metal, glass and plastic:

(i) Curbside collection service. Designated recyclable metal, glass and plastic (other than bulk metal) that is collected for recycling via curbside recycling collection service shall be placed at curbside in containers or plastic bags complying with subparagraphs (e)(1)(ii) or (e)(2)(ii) of this section on the day(s) specified for recycling collection by the Commissioner. Bulk metal shall be placed next to such containers on such days.

(ii) Mechanized collection service. Owners, net lessees or persons-in-charge shall call their district garage to make arrangements for recycling collection of bulk metal.

(2) Designated recyclable paper:

(i) Curbside collection service. Newspaper, magazines, catalogs, phone books and corrugated cardboard that are collected via curbside collection service shall be placed out for collection in securely tied bundles. Bundles shall not exceed eighteen inches in height. Mixed paper required to be recycled shall be placed out for curbside collection in rigid containers or plastic bags complying with subparagraphs (e)(1)(i) or (e)(2)(i) of this section. Other designated recyclable paper (i.e., newspapers, magazines, phone books, and corrugated cardboard) shall be placed out for curbside collection in such rigid containers or plastic bags or in securely tied bundles, which shall not exceed eighteen inches in height. Corrugated cardboard shall be broken into small pieces (no larger than 9 inches by 11 inches) before being placed into rigid containers or plastic bags.

(ii) Mechanized collection service. Designated recyclable paper that is collected via mechanized collection service shall be placed in containers complying with paragraph (e)(3) of this section. Corrugated cardboard shall be collapsed and placed into containers in a manner which will enable such material to fall freely from containers during

collection. On the day of collection, containers shall be placed in an area determined by the Commissioner to be accessible to Department vehicles.

(3) Yard waste material. For the purposes of this subparagraph, "yard waste" shall be as defined in [subdivision (p) of] §16-303 of the Administrative Code. Yard waste material, which the Department collects under its seasonal collection programs through curbside collection service in districts designated by the Commissioner to receive such service, shall be placed out for curbside collection on the day(s) specified for yard waste collection by the Commissioner in either of the following:

(i) biodegradable, two-ply wet strength stock (fifty pounds each ply) leak-proof paper bags. Such bags shall not exceed 16 inches in length by 12 inches in width by 35 inches in height, and shall have a minimum capacity of 30 gallons and a maximum capacity of 55 gallons. Any written statement from the manufacturer of paper bags that it has complied with the biodegradability requirements for such bags shall relieve the user of such bags from liability for deviation from the biodegradability requirements; or

(ii) rigid containers, provided that such containers are unlined, and are a minimum of 20 and a maximum of 32 gallons in capacity.

(4) Non-designated material. Materials that are not required to be source separated for recycling shall be removed from both curbside and mechanized collection recycling containers prior to recycling collection day.

(5) Designated recyclable materials. Designated recyclable materials that have been source separated as required by subdivision (g) of this section shall not be placed out for collection in the same container as non-designated material.

(6) The owner of any residential building or mixed use building who has arranged for private carter removal service of all or some recyclables generated at such building pursuant to section 16-118(7)(b) of the administrative code of the city of New York, and seeks to reinstate department collection service for such recyclables at the building, must notify the department's Collection Office in writing requesting the restoration of department recycling collection service to the building not less than sixty days prior to the discontinuation of the building's private carter removal service for such recyclables.

(i) *Compliance:* Residential buildings of [nine] four or more dwelling units:

(1) Where the Commissioner, in his/her discretion, determines that the amount of designated recyclable materials placed out for collection by a residential building containing [nine] four or more dwelling units remains significantly less than what can reasonably be expected, the owner, net lessee, person-in-charge or residents of such building shall be required to use clear bags, or such other means of disposal as the Commissioner deems appropriate, for purposes of monitoring compliance with the New York City Recycling Law (New York City Administrative Code, §16-301 et seq.) to dispose of solid waste other than designated recyclable materials.

(2) Where the Commissioner determines that the owner, net lessee, or person-in-charge of the building has complied with obligations set forth in subdivision (f) of this section and the amount of designated recyclable material placed out for collection remains significantly less than what can reasonably be expected from such building, then, upon request of the owner, net lessee, or person-in-charge, the Commissioner shall, in consultation with the owner, net lessee or person-in-charge, develop a schedule to conduct random inspections in the building to facilitate compliance with this section by residents of such building. Such random inspections shall occur at a reasonable time and

may include, but are not limited to, inspections of the solid waste placed out for collection in transparent bags set forth in paragraph (1) of this subdivision. Nothing herein shall limit the Commissioner's authority pursuant to §16-305(g) of the New York City Administrative Code to conduct lawful random inspections at reasonable times without notice to ensure compliance by the owner, net lessee, person-in-charge or resident of such building.

(j) *Enforcement:* Any owner, net lessee, person-in-charge or resident who violates any provision of this section shall be liable for civil penalties as set forth in §16-324 of the New York City Administrative Code.

STATEMENT OF BASIS AND PURPOSE

The Commissioner of the New York City Department of Sanitation is authorized to adopt rules establishing procedures for owners and occupants of residential buildings to place out designated recyclable materials for Department collection pursuant to §16-305 of the New York City Administrative Code.

Local Law Number 34 of 2010 amended §16-305 of the New York City Administrative by enhancing the current storage and posting requirements of residential building owners to facilitate increased recycling by the building's occupants. Local Law 34 also places new requirements on certain building owners to furnish their tenants with Department-issued recycling guide at the inception of a new lease. Accordingly, the Department proposes to amend its rules to make such rules consistent with the new requirements established under Local Law 34.