

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2010**

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**No. 34**

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Introduced by Council Member Fidler and The Speaker (Council Member Quinn) and Council Members Barron, Brewer, Chin, Comrie, Crowley, Dickens, Dromm, Ferreras, Gentile, James, Koppell, Koslowitz, Lander, Lappin, Mark-Viverito, Nelson, Palma, Recchia, Rodriguez, Seabrook, Vann, Williams, Rose, Eugene, Jackson, Gennaro, Van Bramer, White, Garodnick, Mealy, Reyna and Sanders Jr. Passed Under a Message of Necessity from the Mayor.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to recycling outreach, education and enforcement; and to repeal subdivisions d and e of section 16-305 and section 16-311 of the administrative code of the city of New York, relating to source separation of recyclable materials and recycling centers.**

*Be it enacted by the Council as follows:*

Section 1. Subdivisions d and e of section 16-305 of the administrative code of the city of New York are REPEALED, and new subdivisions d and e are added to read as follows:

*d. The commissioner shall adopt and implement rules establishing procedures requiring the placement of the designated materials at the curbside, in specialized containers, or in any other manner the commissioner determines, to facilitate the collection of such materials in a manner that enables them to be recycled. Under such rules, no person shall be liable for incorrectly placing a non-designated rigid plastic container in the recycling stream.*

*e. Where the department provides solid waste collection services to a building containing at least four and no more than eight dwelling units, the commissioner shall adopt and implement rules requiring the owner, net lessee or person in charge of such building to:*

*1. provide for the residents, where practicable, a designated area and, where*

*appropriate, containers in which to store the source separated or other designated recyclable materials to be collected by the department; and*

*2. inform all residents of the requirements of this chapter and the rules promulgated pursuant thereto by, at a minimum, posting instructions on source separation in or near the designated recycling area and making available to each resident at the inception of a lease, where applicable, a department-issued guide to recycling, which shall be made available to the owner, net lessee or person in charge of such building by the department pursuant to section 16-315 of this chapter in print form or on the department's website, or in an alternative guide containing similar information to the guide required by section 16-315 of this chapter.*

*If reasonably accessible space for the storage of source separated or other designated recyclable materials is not available in such building, and such space is available behind the building's property line, such space behind the property line may be designated as the area for the storage of source separated or other designated recyclable materials. If no such space is available, the owner, net lessee or person in charge of such building shall post instructions on recycling and source separation in or near a designated area that is visible to all residents in the building.*

*With respect to solid waste generated by households in the aforesaid buildings, the obligations of an owner, net lessee or person in charge of such building under this chapter shall be limited to those set forth in this subdivision and subdivisions d and g of this section or rules promulgated pursuant to such subdivisions.*

§ 2. Subdivisions f and g of section 16-305 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, are amended to read as follows:

f. Where the department provides solid waste collection services to a building

containing nine or more dwelling units, the commissioner shall[, within nine months of the effective date of this chapter,] adopt and implement [regulations]*rules* requiring the owner, net lessee or person in charge of such building to:

1. provide for the residents a designated area and, where appropriate, containers in which to [accumulate]*store* the source separated or other designated recyclable materials to be collected by the department;

2. [notify]*inform* all residents of the requirements of this chapter and the [regulations]*rules* promulgated pursuant thereto *by, at a minimum, posting instructions on source separation in or near the designated recycling area, and making available to each resident at the inception of a lease, a department-issued guide to recycling, which shall be made available to the owner, net lessee or person in charge of such building by the department pursuant to section 16-315 of this chapter in print form or on the department's website, or in an alternative guide containing similar information to the guide required by section 16-315 of this chapter;* and

3. remove non-designated materials from the containers of designated source separated recyclable materials before such containers are placed at the curbside for collection and ensure that the designated materials are placed at the curbside in the manner prescribed by the department.

With respect to solid waste generated by households in the aforesaid buildings, the obligations of an owner [or a], net lessee *or person in charge of such building* under this [local law]*chapter* shall be limited to those set forth in this subdivision and subdivisions [b]*d* and g of this section *or rules promulgated pursuant to such subdivisions.*

g. [Eighteen months from the enactment date of this chapter, the] *The* commissioner shall adopt and implement [regulations]*rules* for any building containing [nine]*four*

or more dwelling units in which the amount of designated materials placed out for collection is significantly less than what can reasonably be expected from such building. These [regulations]rules shall require residential generators, including tenants, owners, net lessees or persons in charge of such building to use transparent bags or such other means of disposal the commissioner deems appropriate to dispose of solid waste other than the designated recyclable materials. Upon request of the owner, net lessee or person in charge of such building, and if the commissioner determines that such owner, net lessee or person in charge of such building has complied with this subdivision, *subdivision d of this section* and, *as applicable, subdivision e or subdivision f of this section or rules promulgated pursuant to such subdivisions* and that the amount of designated materials placed out for collection remains significantly less than what can reasonably be expected from such building, the department [shall]may develop a schedule to conduct random inspections to facilitate compliance with the provisions of this chapter by tenants of such building, provided that lawful inspections may occur at reasonable times without notice to ensure compliance by the tenants, owner, net lessee or person in charge of such building.

§ 3. Section 16-311 of the administrative code of the city of New York is REPEALED and a new section 16-311 is added to read as follows:

§ 16-311 *Recycling outreach and education. a. The department shall provide instruction and materials for residential building owners, net lessees or persons in charge of such buildings, and their employees and residents, in order to improve compliance with the provisions of this chapter.*

*b. The commissioner shall establish a recycling education program that shall include recycling instructional workshops, training curricula and other relevant materials for residential building owners, net lessees or persons in charge of such buildings, and their*

*employees and residents, including an internet-based recycling tutorial. Such program shall also provide instructional workshops, training curricula, and other relevant material to employees of city agencies, including a leaf and yard waste training program for employees of any such agencies that generate significant leaf and yard waste. The commissioner may utilize a private entity or not-for-profit corporation to assist with the establishment or performance of such program.*

§ 4. Section 16-315 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, is amended to read as follows:

§ 16-315 Notice, education and research programs. a. In addition to the notice requirements of section one thousand forty-three of chapter forty-five of the charter, within thirty days of the effective date of any [regulations]rules promulgated pursuant to this chapter, and as frequently thereafter as the commissioner deems necessary, the department shall notify all community boards and persons occupying residential, commercial and industrial premises affected by the [regulations]rules, of the requirements of the [regulations]rules, by [placing advertisements in newspapers of citywide, borough-wide and community circulation,] posting notices *containing recycling information* in public places where such notices are customarily placed[,] and, in the commissioner's discretion, employing any other means of notification deemed necessary and appropriate.

b. *The commissioner shall compile relevant recycling, reuse and composting information, including material available on the department's website, to create and make available a guide to the city's residential recycling program. Such guide shall, at a minimum, summarize and explain the laws and rules governing curbside recycling, list the collection locations and collection dates for non-curbside collected recyclable materials such as household*

*hazardous waste and textiles, and provide detailed information and instructions on how to recycle any materials not collected by the department for which non-city or non-department recycling programs exist. Such guide shall be made available to residential building owners, or the net lessees or persons in charge of such buildings, community boards, not-for-profit organizations, public schools, and other relevant agencies and entities, and shall also be made available on the department website. The commissioner shall update the recycling guide biennially, or as necessary, based on changes to recycling laws, rules or other relevant information to be included therein.*

[Within twelve months of the effective date of this chapter, the]c. The department shall develop and implement an educational program, in conjunction with the [board]department of education, private schools, labor organizations, businesses, neighborhood organizations, community boards, and other interested and affected parties, and using flyers, print and electronic advertising, public events, promotional activities, public service announcements, and such other techniques as the commissioner determines to be useful, to assure the greatest possible level of compliance with the provisions of this chapter. The educational program shall encourage waste reduction, the reuse of materials, the purchase of recyclable products, and participation in city and private recycling activities.

[c]d. The department shall perform such research and development activities, in cooperation with other city agencies, and public and private institutions, as the commissioner determines to be helpful in implementing the city's recycling program. Such research shall include, but not be limited to, investigation into the use of cooperative marketing programs, material recovery facilities, recycling as an economic development tool, export promotion, tax credits and exemptions for market promotion.

§ 5. Section 16-323 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, is amended to read as follows:

§ 16-323 [Regulations]*Rules* submitted to council. [In addition to the requirements of section one thousand forty-three of chapter forty-five of the charter, no regulations promulgated by the commissioner pursuant to this chapter shall be effective until such regulations are submitted to the council and within thirty days of receipt thereof the council has not voted to disapprove such regulations. If the council votes to disapprove the regulations, it shall forward its reasons for such disapproval to the commissioner and the commissioner shall either amend the regulations or withdraw them from consideration. The amended regulations shall not be effective until the commissioner submits them to the council and within thirty days of receipt thereof the council has not voted to disapprove such amended regulations.] *Rules adopted by the commissioner pursuant to this chapter shall become effective only after filing and publication as prescribed by chapter forty-five of the charter. In addition, notwithstanding the provisions of chapter forty-five of the charter, prior to adoption by the commissioner of a final rule pursuant to subdivision e of section one thousand forty-three of the charter, and after consideration of relevant comments presented pursuant to subdivision d of such section, the commissioner shall submit to the council the text of the final rule proposed to be published in the city record. The council shall have thirty days from the date of such submission to comment upon such text. The final rule may include revisions in response to comments from the council and shall not be published in the city record before the thirty-first day after such submission, unless the speaker of the council authorizes earlier publication.*

§ 6. Subdivision a of section 16-324 of the administrative code of the city of New York, as amended by local law number 40 for the year 2006, is amended to read as follows:

a. [Any]Subject to the provisions of subdivision b of this section, any person who violates this chapter, except subdivision [h] f of section 16-308 of this chapter or 16-310.1 of this chapter, or any rule [or regulation ]promulgated pursuant thereto, shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or in a proceeding returnable before the environmental control board, *as follows*:

1. *For residential buildings containing fewer than nine dwelling units, the civil penalty shall be in an amount of twenty-five dollars for the first violation, fifty dollars for the second violation committed on a different day within a period of twelve months, and one hundred dollars for the third and each subsequent violation committed on a different day within a period of twelve months, provided that the court before which such civil action is brought or such board may waive the penalty for the first violation upon a showing of good cause. [A person committing a fourth and any subsequent violation within a period of six months shall be classified as a persistent violator and shall be liable for a civil penalty of five hundred dollars for each violation.]*

2. *For residential buildings containing nine or more dwelling units and commercial, manufacturing or industrial buildings, the civil penalty shall be in an amount of one hundred dollars for the first violation, two hundred dollars for the second violation committed on a different day within a period of twelve months, and four hundred dollars for the third and each subsequent violation committed on a different day within a period of twelve months, provided that the court before which such civil action is brought or such board may waive the penalty for the first violation upon a showing of good cause. The owner, net lessee or person in charge of any residential building of nine or more dwelling units or a commercial, manufacturing or industrial building with respect to which four or more violations were committed on different days within a period of six months shall be classified as a persistent violator.*



3. For [a ]persistent [violation]*violators* only, [except where such violation occurs at a building of less than nine dwelling units, ]each container or bag containing solid waste that has not been source separated or placed out for collection in accordance with the [regulations]*rules* promulgated by the commissioner pursuant to this chapter shall constitute a separate violation, provided that no more than twenty separate violations are issued on a per bag or per container basis during any twenty-four hour period. Before issuing any [further notice]*such notices* of [violations]*violation* to a persistent violator [after the fourth violation committed within a period of six months]*on a per bag or per container basis*, the commissioner shall give such violator a reasonable opportunity to correct the condition constituting the violation.

[Any person who violates subdivision h of section 16-308 of this chapter shall be liable for a civil penalty in the amount of two hundred fifty dollars for the first violation, one thousand dollars for the second violation within a period of twelve months from the first violation, and two thousand five hundred dollars for the third or subsequent violation within a period of twelve months from the first violation.]

4. *There shall be a rebuttable presumption that the number of dwelling units designated on a notice of violation issued pursuant to this section reflects the number of dwelling units in the residential building for which the notice of violation was issued. Where such presumption is rebutted, the number of dwelling units on such notice of violation shall be deemed modified accordingly, and in no event shall such notice of violation be dismissed solely on the ground that the number of dwelling units on the original notice of violation was incorrectly stated.*

5. *The commissioner or the commissioner's designee shall establish a recycling training program for owners or employees of residential buildings of nine or more dwelling units*

*for which at least three notices of violation for failing to properly source separate designated recyclable material have been issued within a twelve-month period and which the commissioner determines to be in need of recycling training. Such training program shall require the building owner, or an employee who is primarily responsible for waste disposal and/or janitorial services for any such building, to attend a training program established by the commissioner or the commissioner's designee designed to improve recycling practices at such building and a fee may be imposed on any owner or employee who participates in such training program. Such training program may be held in any location designated by the commissioner or the commissioner's designee, including, in order to facilitate tenant participation, at such building.*

*b. Any person who violates subdivision f of section 16-308 of this chapter shall be liable for a civil penalty in the amount of two hundred fifty dollars for the first violation, one thousand dollars for the second violation committed within a twelve-month period, and two thousand five hundred dollars for the third and each subsequent violation committed within a twelve-month period.*

*c. Any owner or other person responsible for a publicly accessible textile drop-off bin who violates subdivision b of section 16-310.1 of this chapter shall be liable as follows:*

*1. In the event that a publicly accessible textile drop-off bin is impermissibly placed on city property, or property maintained by the city, or on any public sidewalk or roadway, the owner of the publicly accessible textile drop-off bin, if the address of such owner is ascertainable, shall be notified by the department by certified mail, return receipt requested, that such publicly accessible textile drop-off bin must be removed within thirty days from the mailing of such notice. A copy of such notice, regardless of whether the address of such owner or other responsible person is ascertainable, shall also be affixed to the publicly accessible textile drop-off bin. This*

*notice shall state that if the address of the owner or other responsible person is not ascertainable and notice is not mailed by the department, such publicly accessible textile drop-off bin shall be removed within thirty days from the affixing of such notice. This notice shall also state that the failure to remove the publicly accessible textile drop-off bin within the designated time period will result in the removal and disposal of the publicly accessible textile drop-off bin by the department. This notice shall also state that if the owner or other responsible person objects to removal on the grounds that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway, such owner or other responsible person may send written objection to the department at the address indicated on the notice within twenty days from the mailing of such notice or, if the address of such owner or other responsible person is not ascertainable and notice is not mailed by the department, within twenty days from the affixing of such notice, with proof that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway. Proof that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway shall include, but not be limited to, a survey of the property prepared by a licensed surveyor that is certified by the record owner of such property.*

*2. Any owner or other person responsible for an impermissibly placed publicly accessible textile drop-off bin that fails to respond within twenty days of receipt of such notice under paragraph one of this subdivision or otherwise fails to establish that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway pursuant to paragraph one of this subdivision, shall be liable for a civil penalty in the amount of one hundred dollars, recoverable in a proceeding returnable before the environmental control board.*

[b]d. Any notice of violation or notice of hearing for a violation issued to the owner [or agent], *net lessee or person in charge* of a premises at which a violation of this chapter or any [regulation]*rule* promulgated pursuant thereto is alleged to have occurred shall be served by delivering a copy of the notice [to the owner or agent ]*thereof* at [both ]the address maintained in the records of the [department of buildings and]*department of housing preservation and development* or the department of finance. The notice of violation or notice of hearing may be served by regular mail *or in accordance with section one thousand forty-nine-a of the charter.*

§ 7. This local law shall take effect one hundred twenty days after enactment.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on .....July 29, 2010..... and approved by the Mayor on .....August 16, 2010.....

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 34 of 2010, Council Int. No. 147-A) contains the correct text and was passed by the New York City Council on July 29, 2010, approved by the Mayor on August 16, 2010 and returned to the City Clerk on August 16, 2010.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel