

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTION of amendments to the rules regarding commercial refuse containers.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of the Department of Transportation by Section 2903 of the New York City Charter, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department of Transportation hereby adopts amendments to Section 2-03 and to subdivision (f), paragraph (14) of Section 2-14 of Chapter 2 of Title 34 of the Official Compilation of the Rules of the City of New York, the Highway Rules. This rule was published in the City Record on May 27, 2010, and a public hearing was held on June 29, 2010. New matter is underlined and matter to be deleted is in [brackets].

Section 1. Section 2-03 of Title 34 of the Rules of the City of New York is amended to read as follows:

Miscellaneous Charges and Fees	Fee	Other Charges	Maximum Duration per Permit	Maximum Distance per Permit	Maximum Width per Permit
Place commercial refuse container on street	\$30.00 [per year]		<u>5</u> <u>consecutive</u> <u>days</u>		[12] <u>9</u> feet

§ 2. Subdivision (f) of § 2-14 of Title 34 of the Rules of the City of New York is amended as follows:

(f) Commercial Refuse Containers.

Commercial refuse containers are containers [to be] placed on the public roadways temporarily, the use of which is not related or connected to any use or activity for which a Department of Buildings permit and/or a construction activity permit from the Department, pursuant to Section 2-05 of these rules, [shall be] is required to be obtained [from the Department]. Commercial refuse containers shall not be used for the storage of putrescible waste.

(1) No commercial refuse container shall be placed on the street unless the owner of the container has [registered the container and] obtained a permit from the Department pursuant to Section 2-02 of these rules. Notwithstanding such requirements, the owner of the container shall not be required to post such permit at the work site.

(2) [Upon registration, the Department shall issue a permit to the owner of the container company which lists identification numbers for each registered container. The identification numbers shall be printed on stickers which shall be obtained by container company owners, validated at the nearest Department borough permit office and shall be placed conspicuously on two sides of the container. Specifications for the stickers shall be available at the permit offices.

(3) Permits to place commercial refuse containers on the street temporarily shall be valid for one year. Information regarding the number of containers owned by each company shall be updated as necessary and the permit shall be updated containing the new registration numbers for any additional containers.]

[(4)] Commercial refuse containers shall not be stored or placed within:

- (i) any "No Stopping," "No Standing" [or], "No Parking Anytime", or "Authorized Parking" areas;
- (ii) fifteen feet of hydrants;
- (iii) the area created by extending the building line to the curb (the "corner") or the area from ten feet from either side of the corner (the "corner quadrant");
- (iv) [four feet of lamp posts] a crosswalk or pedestrian ramp, nor shall it be stored or placed in any manner so as to obstruct any crosswalk or pedestrian ramp;
- (v) five feet of railroad tracks.

The prohibitions set forth in subparagraphs (i) through (v) shall not apply to areas where posted signs prohibit standing except for trucks loading and unloading. In exceptional circumstances, the Commissioner may grant permission to store or place containers in the areas specified in [items] subparagraphs (i) through (v)[,] above. An application for such permission shall be made to OCMC indicating the need for such placement.

[(5)] (3) Storage of commercial refuse containers shall not in any way interfere [in any way] with or obstruct access to subway facilities, utility access points, hydrants, fire alarms, traffic signals, street signs, bus stops or bus shelters, [trees, parking meters, emergency telephones,] water main valves or gas shut-off valves, unless permission is obtained from the appropriate City Department or utility.

[(6)] (4) The name, address and telephone number of the owner of the container shall be permanently affixed in characters at least three inches high both on the side of the container that faces the sidewalk area and also on the opposite side that faces the street, with such display being in a color contrasting with that of the container and placed approximately midway vertically.

[(7)] (5) Each container shall be stored [flush with] parallel to the curb and extend no more than [eight] nine feet from the curb into the roadway.

[(8)] The street under all containers shall be shielded by roadway protection to prevent damage to streets.] (6) The street shall be protected with proper covering (e.g., planking, skids, plating, or pneumatic tires) to prevent damage before containers are placed on the street. Protection shall be placed directly under each steel wheel or roller of the container to adequately distribute the weight. Placement of all protection shall be done upon delivery by the owner of the container. All planking and skids for containers shall be a minimum of 1 ½" to a maximum of 3" thick. Overall size of the protective covering shall be a minimum of 12" x 12" and the placement of the protective covering shall not exceed the outer dimensions of the container.

[(9)] (7) All containers shall be clearly marked on all four sides with high intensity reflective paint, reflectors, or other markings capable of producing a warning glow when struck by the head lamps of a vehicle or other source of illumination at a distance of three hundred feet.

[(10)] No container shall be left in one location for more than seventy-two continuous hours.]

[(11)] (8) Sidewalks, gutters, crosswalks and driveways shall at all times be kept clear and unobstructed and all dirt, debris and rubbish shall be promptly removed therefrom.

(9) The owner of any container shall comply with all applicable provisions of Titles 16 and 16-A of the New York City Administrative Code and Title 17 of the Rules of the City of New York.

STATEMENT AND BASIS OF PURPOSE OF RULES

The Commissioner of the Department of Transportation is authorized to promulgate rules regarding streets and highways in the City pursuant to § 2903 of the New York City Charter and Title 19 of the New York City Administrative Code.

The Department has amended §2-03, the chart that sets forth the schedule of fees pertaining to the activities covered in Chapter 2, in three ways: first, to provide that container permits would be valid for up to five consecutive days. Second, the Department has amended §2-03 to reduce the maximum width of the area that a commercial refuse container can occupy -- from twelve feet to nine feet -- to better reflect the actual dimensions of this type of container. This change will help provide that containers do not impede the flow of vehicular and pedestrian traffic. The Department revised the maximum width of the area that a commercial refuse container can occupy in response to comments received from the industry in response to the May 27, 2010 publication of the proposed rules. Thus, containers will be permitted to occupy a maximum width of nine feet from the curb, and not eight feet, as originally proposed. This revision allows additional space for container placement while preventing the container from extending into the roadway more than is necessary.

Finally, the Department has amended the \$30 fee from an annual to a per-permit issuance, to be consistent with other permit issuance procedures in the Highway Rules concerning the temporary placement of equipment or storage of materials at specific locations and to allow the Department to track where containers are placed and for what duration.

With respect to §2-14(f), the Department has amended this subdivision to clarify that the owner of the container is required to secure permits for household debris containers for uses that do not require a permit from either the Department of Buildings or the Department, in order to avoid potential confusion between the application of §2-05 of these rules and §2-14. The rule would also require that containers placed on City streets comply with applicable Business Integrity Commission regulations, as BIC is the agency with oversight authority over the private carting industry. Furthermore, the rule has been amended to require that containers be stored parallel to the curb and not in areas regulated by “Authorized Parking” signage or within crosswalks or pedestrian ramps, both changes intended to prevent obstruction of vehicular and pedestrian traffic. Such containers would have to clearly identify their owners.

Additionally, containers will be permitted to extend no more than nine feet from the curb to the roadway. In the proposal that was published for comment, an eight-foot extension limit would have been retained in the rule. The Department has amended this to be a nine-foot extension, in response to comments received from the public. Finally, the Department would no longer

require the posting of container permits at the work site because containers already must be properly labeled with appropriate identifying information.

In addition to the reasons set forth above, the amendments to §2-14 will allow the Department to track the locations of such containers within its permitting system, thereby helping to identify and prevent potential conflicts with scheduled roadway maintenance, other construction, or special events. Such revisions will also help DOT inspectors respond to citizen complaints that certain containers are placed illegally, or are obstructing roadways, or have been placed beyond specified durations of time.