

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2014**

No. 67

Introduced by The Speaker (Council Member Mark-Viverito), Council Members Reynoso, Dromm, Gentile, Koo, Menchaca, Espinal, Greenfield, Eugene, Johnson, Levine, Miller, Richards, Torres, Vallone, Williams, Rodriguez, Weprin, Rosenthal, Cornegy, Cohen, Crowley, Kallos, Levin, Chin, Constantinides, Barron, Wills, Gibson, Lander, Maisel, Van Bramer and Ulrich (in conjunction with the Mayor).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to regulating publicly accessible collection bins.

Be it enacted by the Council as follows:

Section 1. Section 10-169 of the administrative code of the city of New York, as renumbered by local law number 30 for the year 2013, is amended to read as follows:

§ 10-169 Regulation of publicly accessible collection bins.

a. [Definition] *Definitions*. For purposes of this section[,]:

"Commissioner" shall mean the commissioner of sanitation.

"Department" shall mean the department of sanitation.

"Publicly accessible collection bin" shall mean 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 [provider] *owner* of such container.

b. Requirements. All publicly accessible collection bins shall comply with the following provisions:

1. Each individual publicly accessible collection bin shall prominently display on the front and on at least one other side of the bin, the name, address and telephone number of the [provider] *owner* of the bin. This information shall be printed in characters that are plainly visible. In no event shall a post office box be considered an acceptable address for purposes of this paragraph.

2. No publicly accessible collection bin may be placed on any city property, or property maintained by the city, or on any public sidewalk or roadway.

3. No publicly accessible collection bin shall be placed on any private property without the written permission of the property owner or the property owner's designated agent.

4. The owner of a publicly accessible collection bin placed on private property with the written permission of the property owner, or the property owner's designated agent, and the owner of the property where the bin is located shall be responsible for maintaining such bin in a clean and neat condition.

5. All owners of publicly accessible collection bins that are placed on private property with the written permission of the property owner, or the property owner's designated agent, shall be required to register with the department. Such registration, at a minimum, shall include the location of the publicly accessible collection bin, the type of material collected in the bin, and the name, address, and telephone number of the owner. On or before August first, two thousand fifteen, and annually thereafter, each such owner shall submit a report to the commissioner identifying the weight of the material collected during the period beginning on July first of the year preceding the year the report is due and ending on June thirtieth of the year the report is due. It shall be 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 paragraph.

6. In addition to penalties provided for in any other provisions of law, in the event that a publicly accessible collection bin is placed on *any* city property, or property maintained by the city, or on any public sidewalk or roadway, [the owner of the publicly accessible collection bin, if] *the department shall have the authority to remove such bin. Any publicly accessible collection bin placed on any city property, or property maintained by the city, or on any public sidewalk or roadway, shall be presumed to have been placed there intentionally. If the name and address of [such] the owner of such publicly accessible collection bin [is ascertainable,] are located on the bin and are legible, such owner shall be notified by the department [of sanitation] by certified mail, return receipt requested, that such publicly accessible collection 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 is ascertainable, shall also be affixed to the publicly accessible collection bin. This notice shall state that if the address of the owner is not ascertainable and notice is not mailed by the department of sanitation, such publicly accessible collection bin must be removed within thirty days from the affixation of such notice. This notice shall also state that the failure to remove the publicly accessible collection bin within the designated time period will result in the removal and disposal of the publicly accessible collection bin by the department of sanitation. This notice shall also state that if the owner objects to removal on the grounds that the bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway, such owner may send written objection to the department of sanitation at the address indicated on the notice within twenty days from the mailing of such notice or, if the address of such owner is not ascertainable and notice is not mailed by the department of sanitation, within twenty days from the affixation of such notice, with proof that the bin is on private property. Proof that the bin is on private property shall include, but not be limited to, a survey of the property prepared by a licensed*

surveyor that is certified to the record owner of such property.] *was removed by the department and that the owner can claim such bin through the procedure established by rule. If the name and address of the owner of such publicly accessible collection bin are not located on the bin or are not legible, the commissioner may dispose of such bin in accordance with applicable law and rules thirty days after removal. Any owner who seeks to claim a publicly accessible collection bin that has been removed by the department shall pay the penalty established by this section and the costs of removal and storage, unless, after adjudication by the environmental control board, the owner is found not liable for violating this section, in which case such bin shall be released forthwith, and no removal or storage costs shall be imposed as a condition of such release. If any publicly accessible collection bin is not claimed within thirty days of the mailing of notice to the owner, the commissioner may dispose of such bin in accordance with applicable law and rules.*

c. Any person who violates the provisions of paragraph two of subdivision b of this section shall be liable for a civil penalty recoverable in a proceeding before the environmental control board of two hundred fifty dollars for the first offense and five hundred dollars for each subsequent offense within any eighteen-month period. Any person who violates the provisions of paragraph two of subdivision b of this section by attaching or enclosing by any means any publicly accessible collection bin to or on any city property, or property maintained by the city, or on any public sidewalk or roadway, shall be liable for a civil penalty recoverable in a proceeding before the environmental control board of five hundred dollars for the first offense and one thousand dollars for each subsequent offense within any eighteen-month period. For purposes of this section, each publicly accessible collection bin placed on any city property, or property maintained by the city, or on any public sidewalk or roadway, shall be deemed a separate violation.

d. Any person who violates the provisions of paragraphs one, four or five of subdivision b of this section shall be liable for a civil penalty recoverable in a proceeding before the environmental control board of fifty dollars for the first offense and one hundred dollars for each subsequent offense within any eighteen-month period.

e. The commissioner may promulgate such rules as are necessary to implement the provisions of this section including, but not limited to, rules relating to:

- 1. payment, by the owner, of removal and storage costs incurred by the commissioner,*
- 2. registration and reporting requirements for publicly accessible collection bins placed on private property,*
- 3. the procedures for claiming publicly accessible collection bins that are removed by the department, and*
- 4. the disposal of publicly accessible collection bins that have been removed by the department and claimed by an owner in cases where there is a subsequent failure to collect such bins.*

§ 2. This local law shall take effect 90 days after its enactment into law, except that the commissioner of sanitation may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

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 November 13, 2014 and returned unsigned by the Mayor on December 12, 2014.

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

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 67 of 2014, Council Int No. 409-A of 2014) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.