

New York City Department of Sanitation

NOTICE OF ADOPTION OF FINAL RULES RELATING TO THE CHANGE OF CRITERIA FOR THE REMOVAL OF DERELICT BICYCLES FROM PUBLIC PROPERTY

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 sections 753 of the New York City Charter and sections 16-122 and 16-128 of the New York City Administrative Code that the Department adopts the following rule relating to the change of criteria for the removal of derelict bicycles from public property. The Department published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on July 6, 2016. On August 9, 2016, the Department held a public hearing on the proposed rule.

Statement of Basis and Purpose of Rule

The Department of Sanitation (“DSNY”) is amending its rule for the removal of derelict bicycles from public property by:

- 1) reducing the requirements of derelict condition from a minimum of three characteristics to a minimum of two characteristics,
- 2) removing flat or missing tires as a derelict condition characteristic, and
- 3) changing the minimum amount of rust cover from 75 percent to 50 percent.

DSNY’s authority for these rules is found in sections 753 (a) and (b) of the New York City Charter and by sections 16-122 and 16-128 of the New York City Administrative Code

New material is underlined.

[Deleted material is in brackets.]

“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: Subdivisions (a) of section 1-05.1 of Chapter 1 of title 16 of the Rules of the City of New York is amended to read as follows:

§1-05.1 Removal of Derelict Bicycles.

(a) Definitions. When used in this section.

(1) **Derelict bicycle.** The term "[D]derelict bicycle" means any bicycle, that is not a ghost bike, which is affixed to public property and also contains [three] two or more of the following characteristics:

(i) the bicycle appears to be crushed or not usable;

(ii) the bicycle is missing parts essential to its operation, other than the seat and front wheel, including, but not limited to handlebars, pedal or pedals, rear wheel and chain;

(iii) [the bicycle has flat or missing tires;

(iv)] the handlebars or pedals are damaged, or the existing forks, frames or rims are bent; or

[(v) seventy-five] (iv) fifty percent or more of the bicycle, which includes the handlebars, pedals and frames are rusted, along with any chain affixing such bicycle to public property.

(2) **Ghost bike.** The term "[G]ghost bike" means a bicycle that has been placed on public property and apparently intended as a memorial for someone who is deceased, and which may be painted white or have a sign posted on or near it, or flowers or other mementos in the basket.

(3) **Public property.** The term "[P]public property" means city property or property maintained by the city, or any public sidewalk or roadway, including, but not limited to any bicycle rack, light pole, bus pole, parking meter, tree, tree pit, railing or similar structure. For purposes of this section, public property shall include any bicycle rack installed by the department of transportation, its contractors, permittees or other entity authorized by the department of transportation. Public property shall not include those docks or stations installed under authority of the department of transportation's Bikeshare Program.

(b) In the event that a derelict bicycle is affixed to public property, a notice shall be affixed to the derelict bicycle advising the owner that such derelict bicycle must be removed within seven days from the date of the notice. This notice shall also state that the failure to remove such derelict bicycle within the designated time period will result in the removal and disposal of the derelict bicycle by the department of sanitation.

(c) Nothing in this section shall preclude the immediate removal of any bicycle, including, but not limited to, a derelict bicycle or ghost bike, or the taking of any other action by any city agency if the presence of such bicycle which creates a dangerous condition by restricting vehicular or pedestrian traffic, or otherwise violates the law.