

## New York City Department of Parks & Recreation

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The New York City Department of Parks & Recreation (“Parks Department”) is proposing to amend its rules to allow the use of body boards at the Parks Department’s authorized bathing beaches.

**When and where is the Hearing?** The Parks Department will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 am on April 17, 2015. The hearing will be in the Parks Department’s hearing room in the Chelsea Recreation Center at 430 West 25<sup>th</sup> Street, New York, NY 10001.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Parks Department through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [rules@parks.nyc.gov](mailto:rules@parks.nyc.gov).
- **Mail.** You can mail written comments to:

Amy Kleitman, Senior Counsel  
The New York City Department of Parks & Recreation  
The Arsenal, Central Park  
830 Fifth Avenue  
New York, NY 10065

- **Fax.** You can fax written comments to Amy Kleitman, Senior Counsel, at 917-849-6438.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-360-1355. You can also sign up in the hearing room before the hearing begins on April 17, 2015. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** You must submit written comments by April 17, 2015.

**Do you need assistance to participate in the Hearing?** You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-360-1383. You must tell us by April 7, 2015.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the

hearing, a recording of the hearing and copies of the written comments will be available to the public at the Office of the General Counsel.

**What authorizes the Parks Department to adopt this rule?** Sections 389, 533(a)(9) and 1043 of the New York City Charter authorize the Parks Department to adopt this proposed rule. This proposed rule was not included in the Parks Department's regulatory agenda for this Fiscal Year because it was not contemplated at the time agencies needed to submit the agenda.

**Where can I find the Parks Department's rules?** The Parks Department's rules are in title 56 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Parks Department must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the Charter.

## Statement of Basis and Purpose of Proposed Rule

This proposed rule will allow members of the public to use “body boards” at authorized bathing beaches under the Department’s jurisdiction.

The proposed rule will:

- Define body boards as being semi-curved rectangular objects made of closed-cell foam designed to be used lying down on the stomach (not for standing on) that are no longer than 46” in length and 24” in width. In addition, body boards must not have rigid or semi-rigid attachments or protrusions that serve as rudders and are used to aid in steering, commonly referred to as “skegs”.
- Permit the use of body boards at authorized bathing beaches when bathing is permitted.
- Provide Department personnel discretion to restrict the use of body boards due to on-site conditions.

The Parks Department’s authority for these rules is found in sections 389, 533(a)(9) and 1043 of the New York City Charter.

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. Section 1-02 of Title 56 of the Official Compilation of the Rules of the City of New York is amended to read as follows:

### §1-02 **Definitions.**

**Authorized bathing beaches.** "Authorized bathing beaches" are those designated as such by the Department after approval by the Health authorities.

**Bathing area.** "Bathing area" means any area maintained for the use of bathers, including the water area and lands under water adjacent to and within one thousand feet of the bathing beaches on the ocean, bays or rivers along the shores of New York City under the jurisdiction of the Commissioner.

**Bicycle.** "Bicycle" means every two- or three-wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or gears, with such wheels in a tandem or tricycle, except that it shall not include such a device having solid tires and intended for use only on a sidewalk by pre-teenage children.

**Boardwalk.** "Boardwalk" means any waterfront promenade maintained for pedestrians.

**Body board.** "Body board" means (1) a semi-curved rectangular object made of closed-cell foam designed to be used lying down on the stomach (not for standing on); (2) that is no longer

than 46” in length and 24” in width; and (3) that does not have rigid or semi-rigid attachments or protrusions that serve as rudders and are used to aid in steering. Such rudders may be commonly referred to as “skegs”.

**Commissioner.** "Commissioner" means the Commissioner of the Department of Parks and Recreation or the chief executive officer of any successor agency.

**Demonstration.** "Demonstration" means a group activity including but not limited to, a meeting, assembly, protest, rally, march or vigil which involves the expression of views or grievances, involving more than 20 people or a group activity involving less than 20 people for which specific space is requested to be reserved.

**Department.** "Department" refers to the Department of Parks and Recreation of the City of New York or all successor agencies.

**Dumping.** "Dumping" refers to the unauthorized disposal of refuse in an amount totaling one cubic yard or more.

**Event.** "Event" refers to both Demonstrations and Special Events.

**Expressive Matter.** "Expressive matter" means materials or objects with expressive content, such as newspapers, books, or writings, or visual art such as paintings, prints, photography, sculpture, or entertainment.

**Littering.** "Littering" refers to the unauthorized disposal of refuse in an amount totaling less than one cubic yard.

**Motor vehicle.** "Motor vehicle" refers to any automobile, motorcycle, moped, or other vehicle propelled by a motor.

**Owner.** "Owner" refers to any person owning, operating, or having the use or control of an animal, a vehicle or any other personal property.

**Park.** "Park" signifies public parks, beaches, waters and land under water, pools, boardwalks, playgrounds, recreation centers and all other property, equipment, buildings and facilities now or hereafter under the jurisdiction, charge or control of the Department.

**Park path.** "Park path" means any road, path or trail through or within a park that is not used for vehicular traffic, except for possible use by emergency motor vehicles or Department motor vehicles, provided that it shall not include a path designated by the Commissioner as a bikepath.

**Park road.** "Park road" means any road through or within a park, and is used for vehicular traffic.

**Park sign.** "Park sign" means any placard, notice or sign duly posted by the Department.

**Park-street.** "Park-street" means the full width of all streets abutting any park.

**Pedicab.** "Pedicab" means a bicycle as defined in this section or other device that is designed and constructed to transport or carry passengers, that is solely propelled by human power, and that is operated to transport passengers for hire.

**Permit.** "Permit" unless otherwise specified, means any written authorization issued by or under the authority of the Commissioner for a specified privilege, permitting the performance of a specified act or acts in any park or on any park-street.

**Person.** "Person" means any natural person, corporation, society, organization, company, association, firm, partnership, or other entity.

**Police officer.** "Police officer" refers to any member of the Police Department of the City of New York and any other city employee who is a Special Patrolman appointed and sworn in by the Police Commissioner and assigned to the Commissioner.

**Rules.** "Rules" unless otherwise specified, refers to any Rule established pursuant to §533(a) of Chapter 21 of the New York City Charter and promulgated in compliance with the notice, publication and filing requirements of Chapter 45 of the New York City Charter.

**Sexual activity.** "Sexual activity" means any activity by a person that reasonably appears to be intended to sexually arouse that person or another person, and in which such person exposes his or her buttock or genitalia, or the area of the female breast below the top of the areola.

**Sound reproduction device.** "Sound reproduction device" includes, but is not limited to, any radio receiver, phonograph, television receiver, musical instrument, tape recorder, cassette or disc player, speaker device or system and any sound amplifier.

**Special Event.** "Special Event" means a group activity including, but not limited to, a performance, meeting, assembly, contest, exhibit, ceremony, parade, athletic competition, reading, or picnic involving more than 20 people or a group activity involving less than 20 people for which specific space is requested to be reserved. Special Event shall not include casual park use by visitors or tourists.

§ 2. Paragraph (2) of subdivision (g) of section 1-05(g)(2) of Title 56 of the Official Compilation of the Rules of the City of New York is amended to read as follows:

Section 1-05

(g) Beaches, Boardwalks, and Pools

(2) Except where permitted by the Commissioner, no person shall bring into or use in any pool under the jurisdiction of the Department, artificial floats, masks, spears, fins, snorkels, air or gas tanks, or other apparatus used for skin or scuba diving. No person shall bring into or use in any other water under the jurisdiction of the Department, artificial floats, spears, fins, snorkels, air or gas tanks, or other apparatus used for scuba diving. However, body boards, as defined in section 1-02 of this title, are permitted at authorized bathing beaches at times when bathing is permitted. However, Department personnel may restrict the use of body boards based on site conditions, including but not limited to, rough water, overcrowding, and the nature of the location.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Use of Body Boards on Public Beaches

**REFERENCE NUMBER:** 2015 RG 014

**RULEMAKING AGENCY:** Department of Parks and Recreation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: February 27, 2015

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Use of Body Boards on Public Beaches

**REFERENCE NUMBER:** 2015 RG 014

**RULEMAKING AGENCY:** Department of Parks and Recreation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Natalie Kotkin  
Mayor's Office of Operations

2/27/2015  
Date