

## New York City Department of Transportation

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

**What are we proposing?** This proposed rule sets forth the procedures for an administrative appeal of a decision by the New York City Department of Transportation (DOT) to revoke or suspend a Parking Permit for People with Disabilities.

**When and where is the Hearing?** DOT will hold a public hearing on the proposed rule at 2:00p.m. on August 10, 2015. The Hearing will be at 55 Water Street, Bid Room, New York, NY 10041.

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

- **Website.** You can submit comments through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [rules@dot.nyc.gov](mailto:rules@dot.nyc.gov).
- **Mail.** You can mail written comments to:  
  
Elsie Martel  
Executive Director  
28-11 Queens Plaza North, Suite 800  
Long Island City, NY 11101
- **Fax.** You can fax written comments to 718-433-3319, attn: Elsie Martel.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the Hearing must sign up to speak. You can sign up before the Hearing by calling 212-839-6500. You can also sign up in the Hearing room before the Hearing begins on August 10, 2015. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by August 9, 2015.

**Do you need assistance to participate in the Hearing?** You must tell the Office of Legal Affairs 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 at the address given above. You may also tell us by telephone at 212-839-6500. You must tell us by August 9, 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 transcript of the hearing and copies of the written comments are available through DOT's Freedom of Information Law Office, which is located at 55 Water Street, 4<sup>th</sup> Floor, New York, NY 10041.

**What authorizes DOT to make this rule?** Section 2903(a)(15)(a) of the New York City Charter (“Charter”) empowers the DOT Commissioner to issue Special Vehicle Identification Parking Permits, including Parking Permits for People with Disabilities. It further provides that “[a]ny abuse by any person to whom such permit has been issued of any privilege, benefit or consideration granted pursuant to such permit, shall be sufficient cause for revocation of such permit.” Section 4-08(o)(1)(v) of Title 34 of the Rules of the City of New York (“RCNY”) provides that “any abuse by any person of any privilege, benefit or consideration granted by such permit, shall be sufficient cause for revocation of said permit.”

This proposed rule was included in the DOT’s regulatory agenda for Fiscal Year 2015.

**Where can I find DOT’s rules?** DOT’s rules are located in Title 34 of the Rules of the City of New York.

**What rules govern the rulemaking process?** DOT must meet the requirements of Charter § 1043 when adding or amending rules. This notice is made according to the requirements of Charter § 1043.

## **Statement of Basis and Purpose of Proposed Rule**

Section 2903(a)(15)(a) of the New York City Charter (“Charter”) empowers the New York City Department of Transportation (DOT) Commissioner to issue Special Vehicle Identification Parking Permits, including Parking Permits for People with Disabilities (PPPD). It further provides that “[a]ny abuse by any person to whom such permit has been issued of any privilege, benefit or consideration granted pursuant to such permit, shall be sufficient cause for revocation of such permit.” Section 4-08(o)(1)(v) of Title 34 of the Rules of the City of New York (“RCNY”) provides that “any abuse by any person of any privilege, benefit or consideration granted by such permit, shall be sufficient cause for revocation of said permit.”

Currently, neither the Charter nor the RCNY provides any guidance for the procedures to revoke or suspend a PPPD.

This proposed rule sets forth the procedures for an administrative appeal of a determination by the DOT to revoke or suspend a PPPD.

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.

## **Proposed Rule**

Subparagraph (v) of paragraph 1 of subdivision (o) of section 4-08 of chapter 4 of title 34 of the Rules of the City of New York is amended to read as follows:

(v) Revocation or Suspension. Any abuse by any person of any privilege, benefit or consideration granted by such permit, will be sufficient cause for revocation or suspension of said permit.

(A) If the Department determines that a permit holder has abused a permit, the Department will issue a notice of intent to revoke or suspend the permit. The Department will send such notice to the permit holder by mail, and the notice will state the grounds for the proposed revocation or suspension. The notice will also inform the permit holder that he or she has an opportunity to be heard, either in-person or by teleconference.

(B) Grounds for suspension or revocation shall include, but not be limited to the following:

(1) Use of the permit that does not meet the requirements of section 2903(15)(a) of the New York City Charter, which states: “Any vehicle displaying such permit shall be used exclusively in connection with parking a vehicle in which the person to whom it has been issued is being transported or will be transported within a reasonable period of time.”

- (2) Transfer of the permit, copying of the original permit, use of a copied permit, or refusal to return an expired permit after receipt of a new permit.
- (C) If the permit holder wants an opportunity to be heard, the permit holder must submit a request to the Department in writing. The Department must receive such request within thirty (30) calendar days of the date of the Department's notice. If the Department does not receive a written request for an opportunity to be heard within thirty (30) calendar days of the date of the Department's notice, the Department will revoke or suspend the permit.
- (D) If the permit holder submits a timely written request for an opportunity to be heard, the Department will schedule such opportunity to take place no later than thirty (30) calendar days from the date that the Department receives the permit holder's request. The Department will notify the permit holder of the date of the opportunity to be heard by mail.
- (E) The permit holder may make a written request to receive copies of the evidence used by the Department in its decision making. Such request must be received by the Department at least fourteen (14) calendar days in advance of the date of the opportunity to be heard. The Department will provide a copy of the evidence in the manner requested by the permit holder (e.g. mail, e-mail, or in-person) no later than seven (7) days prior to the date of the opportunity to be heard.
- (F) Requests for rescheduling, by either the permit holder or the Department, of the opportunity to be heard must be received by the other party at least forty-eight (48) hours in advance of the originally scheduled date. If the request for rescheduling is agreed upon by both the permit holder and the Department, a new date will be scheduled within fourteen (14) days of the original date as agreed upon by the permit holder and Department.
- (G) The opportunity to be heard will be conducted by a designee of the Commissioner. The designee will (1) review the Department's decision to issue the notice of intent to revoke or suspend the permit, and (2) provide an opportunity for the permit holder to present reasons and evidence why the revocation or suspension is not warranted. The designee will issue findings of fact and a recommendation following the opportunity to be heard.
- (H) Within thirty (30) days of the opportunity to be heard, the Commissioner, or his or her designee, other than the designee who conducted the opportunity to be heard and issued the recommendation, will issue a final decision. The final decision will include such findings of fact and recommendation of the person who conducted the opportunity to be heard and will accept, reject or modify that recommendation. The Department will send the final decision to the permit holder via mail within five (5) calendar days. The final decision will constitute a final agency determination.

**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:** Appeal of Revocation of Parking Permits for People with Disabilities

**REFERENCE NUMBER:** DOT-24

**RULEMAKING AGENCY:** Department of Transportation

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/ Guenevere Knowles  
Mayor's Office of Operations

June 10, 2015  
Date

**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:** Appeal of Revocation of Parking Permits for People with Disabilities

**REFERENCE NUMBER:** 2014 RG 108

**RULEMAKING AGENCY:** Department of Transportation

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: June 10, 2015