

New York City Department of Sanitation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing?

The Department of Sanitation (DSNY) proposes to amend its rule for the removal of derelict bicycles from public property.

When and where is the hearing? DSNY will hold a public hearing on the proposed rule. The public hearing will take place between 10:00 A.M. – 12:00 P.M. on August 9, 2016. The hearing will be at 125 Worth Street, Room 819, New York, NY 10013.

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

- **Website.** You can submit comments to the DSNY through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dsny.nyc.gov.
- **Mail.** You can mail written comments to DSNY, 125 Worth Street, Room 710, New York, NY 10013.
- **Fax.** You can fax written comments to DSNY at 212-788-3876.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing can sign up in the hearing room before the hearing begins on August 9, 2016.
- **Is there a deadline to submit written comments?** The deadline for submitting written comments shall be August 9, 2016.

Do you need assistance to participate in the hearing? You must contact the Department of Sanitation's Bureau of Legal Affairs if you need a reasonable accommodation at the hearing because of a disability. 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 646-885-5006. You must tell us by August 2, 2016.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at 125 Worth Street, Room 710, New York, NY 10013.

What authorizes DSNY to make this rule?

Sections 753(a) and (b) of the New York City Charter and Sections 16-122 and 16-128 of the Administrative Code of the City of New York.

Where can I find DSNY's rules? DSNY's rules are in Title 16 of the Rules of the City of New York.

What rules govern the rulemaking process? DSNY must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Department of Sanitation ("DSNY") proposes to amend 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.

**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: Amendment of rules governing removal and disposal of derelict bicycles

REFERENCE NUMBER: 2016 RG 054

RULEMAKING AGENCY: Department of Sanitation

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 21, 2016

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

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

RULE TITLE: Amendment of rule for removal and disposal of derelict bicycles

REFERENCE NUMBER: DSNY-13

RULEMAKING AGENCY: Department of Sanitation

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 21, 2016
Date