

STORAGE OF VEHICLES BY SECOND-HAND AUTOMOBILE DEALERS IN PUBLIC SPACE RULE

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Consumer Affairs (DCA) is proposing a new rule that prohibits the storage of vehicles by second-hand automobile dealers in public spaces in New York City.

When and where is the Hearing? DCA will hold a public hearing on the proposed rule. The public hearing will take place at 10 AM on April 21st, 2016. The hearing will be in the Department of Consumer Affairs hearing room at 66 John Street, 11th Floor, New York, NY 10038.

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

- **Website.** You can submit comments to the Department of Consumer Affairs through the New York City rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **Mail.** You can mail comments to Casey Adams, New York City Department of Consumer Affairs, 42 Broadway, New York, NY 10004.
- **Fax.** You can fax written comments to the Department of Consumer Affairs, (646) 500-5962.
- **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) 436-0095. You can also sign up in the hearing room before the hearing begins on April 21st, 2016. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before April 21st, 2016.

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) 436-0155. You must tell us by April 18th, 2016.

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 Web site at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Department of Consumer Affairs to make this rule? Sections 1043 and 2203(f) of the City Charter and Section 20-268(a) of Subchapter 11 of Chapter 2 of Title 20 of the New York City Administrative Code authorize the Commissioner of the Department of Consumer Affairs to make this proposed rule. This proposed rule was not included in the regulatory agenda of the Department of Consumer Affairs for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find the rules of the Department of Consumer Affairs? The Department of Consumer Affairs' rules are in Title 6 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department of Consumer Affairs must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made in accordance with the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Subdivision a of section 20-268 of Title 20 of the New York City Administrative Code makes it “unlawful for any dealer in second-hand articles to carry on his or her business at any place other than the one designated in such license,” including business that is conducted in public spaces. Additionally, the Department has found that second-hand automobiles are frequently parked, stored or displayed in public spaces, such as sidewalks and streets, which interferes with pedestrian use and creates blockage, congestion and potential safety hazards.

The proposed rule is necessary to clarify that second-hand automobile dealers cannot park, store or display second-hand automobiles on public spaces and to ensure that second-hand automobile dealers park their vehicles in a manner that is safe and does not interfere with the flow of pedestrian traffic.

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

Section 1. Section 2-103 of subchapter K of Chapter 2 of Title 6 of the Rules of the City of New York is amended to add a new subdivision (m) to read as follows:

§2-103 Second-Hand Automobiles.

(m)(1) Definitions.

(i) “Public space” means all publicly owned property between the property lines on a street as such property lines are shown on City records including, but not limited to, a park, plaza, roadway, shoulder, tree space, sidewalk or parking space between such property lines.

(ii) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(2) A dealer in second-hand automobiles must not park, store, display, leave standing or allow any vehicle it owns, has in its possession or offers for sale to occupy or encroach on public space.

**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: Second-hand Automobiles in Public Spaces

REFERENCE NUMBER: DCA-36

RULEMAKING AGENCY: Department of Consumer Affairs

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/ Francisco X. Navarro
Mayor's Office of Operations

March 11, 2016
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: Second-hand Automobiles in Public Spaces

REFERENCE NUMBER: 2015 RG 102

RULEMAKING AGENCY: Department of Consumer Affairs

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

Date: March 11, 2016

Acting Corporation Counsel

