

NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Parks and Recreation (“the Department”) is considering amending its rules to prohibit vendors from storing property used for vending on sidewalks adjacent to parks and other property within the jurisdiction of the Department when they are not actively vending and to add a penalty for violation of this prohibition.

When and where is the Hearing? The Department will hold a public hearing on the proposed rule. The public hearing will take place at 1:00 P.M. on June 25, 2024. The hearing will be in at the Chelsea Recreation Center, located at 430 W. 25th 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 Department through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nyc.rules@parks.nyc.gov.
- **Mail.** You can mail written comments to: 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 917-849-6795.
- **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 212-360-1327. You can also sign up in the hearing room before the hearing begins on June 25, 2024. You may speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit written comments? You must submit written comments by June 25, 2024.

Do you need assistance to participate in the Hearing? You must tell the Office of 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 212-360-1327. You must tell us by June 14, 2024.

Can I review the comments made on the proposed rules? You can review the comments made online concerning the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all comments submitted online and copies of all written comments concerning the proposed rules will be available to members of the public, who may request them mail or email at the addresses given above. You may also request the comments by telephone at 212-360-1327.

What authorizes the Department to make this rule? Sections 389, 533(a)(9), and 1043 of the City Charter authorize the Parks Department to make 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 when agencies needed to submit an agenda.

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

What rules govern the rulemaking process? The 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

The Department proposes to revise sections 1-04 and 1-07 of Chapter 1, Title 56 of the Rules of the City of New York. The proposed amendments would prohibit vendors from storing property used for vending on sidewalks adjacent to parks and other property within the jurisdiction of the Department when they are not actively vending and add a penalty for violation of this prohibition.

Currently, the Department's rule prohibits the storage of personal property in areas in or adjacent to parks only if the property is left unattended. However, the storage of vending property on sidewalks at any time creates hazards to both vendors and pedestrians. The storage of vending materials on sidewalks poses a security risk because it increases the risk that (1) vendors' property will be stolen when the property is not properly attended, and (2) other individuals will place dangerous or illegal items under the vendors' tables or tarps. In addition, storage of vending materials on sidewalks results in the inability to properly clean sidewalks, creating a health and safety hazard.

The proposed rule would prohibit vendors from storing vending related materials, whether attended or unattended, on sidewalks that are adjacent to parks and other property within the jurisdiction of the Department. The fine for violating this rule would be \$250.

This proposed rule would not affect individuals who are not vendors and will not impact vendors' ability to vend as described in paragraph (b) of section 1-05 of Chapter 1, Title 56 of the Rules of the City of New York.

The Department's authority for these rules is found in Section 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. Paragraph (c) of Section 1-04 of chapter 1 of Title 56 of the Rules of the City of New York is amended to read as follows:

(c) Littering, Polluting, Dumping, [and] Unattended Property, and Storage of Vending-Related Property

- (1) No person shall litter in any park. All persons shall use receptacles provided for the disposal of refuse.

- (2) No person shall throw, drop, allow to fall, discharge into or leave in, or otherwise introduce into Parks waters any substance, liquid or solid, gas, or other item which may or will result in the pollution of said waters. Violation of this paragraph constitutes a misdemeanor.
- (3) No person shall engage in unlawful dumping in any park. Violation of this paragraph constitutes a misdemeanor.
- (4) No person shall, within or adjacent to any park, store or leave unattended personal belongings.
- (5) No vendor, as defined in section 1-05(b)(1) of this title, or person acting on behalf of a vendor, shall store or otherwise leave any item or items used or offered in conjunction with vending, whether attended or unattended, on any property under the jurisdiction of the Department when not actively engaged in vending allowed under section 1-05(b) of this title. For the purposes of this section, “actively vending” means that: (i) if the vendor is providing goods for sale, hire, lease, let, or in exchange for a donation, such goods are displayed and readily available for sale, hire, lease, let, or in exchange for a donation, or (ii) if the vendor is providing services or entertainment for sale, hire, lease, let, or in exchange for a donation, those services or entertainment are readily available for sale, hire, lease, let, or in exchange for a donation.

Section 2. The table set forth in section 1-07 of chapter 1 of Title 56 of the Rules of the City of New York is amended by adding a new row, to be placed in the table in alphanumeric order, to read as follows:

56 RCNY § 1-04(c)(5)	Storing/leaving vending property	\$250	\$375
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**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: Storage of Vending Property

REFERENCE NUMBER: 2024 RG 032

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

Date: April 1, 2024

Senior Counsel

**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: Storage of Vending Property

REFERENCE NUMBER: DPR-21

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) A cure period is not necessary because: (a) the proposed rule amendment provides clarification as to when vendors are not allowed to keep vending property on Parks property, rather than establish an entirely new type of rule; (b) the affected vendors' goods are easily moveable and are otherwise moved from location to location. The period of time between the notice of adoption and the effective date of the new rule provides ample time for vendors to comply with the rule.

/s/ Francisco X. Navarro
Mayor's Office of Operations

April 4, 2024
Date