

New York City Department of Transportation
Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Transportation (“DOT”) is proposing an amendment to its Traffic Rules regarding the establishment of a trade-in program pursuant to local law for powered mobility devices.

When and where is the Hearing? DOT will hold a public hearing on the proposed rule online. The public hearing will take on August 27, 2024 at 10 a.m.

Join through Internet:

- To join the hearing via your browser either click on the following URL link or copy and paste it into your browser’s address bar.

<https://zoom.us/j/96828273172?pwd=qvkd1ClNBRHGxOZbLcg2mlASpY3CO.1>

Join Zoom Meeting:

- Meeting ID: 968 2827 3172
- Passcode: 056041

Then follow the prompts. If you have low bandwidth or inconsistent Internet connection, we suggest you use the phone option below for the hearing.

Join via phone only:

To join the meeting only by phone, use the following information to connect:

- Phone: 646-518-9805
- Meeting ID: 968 2827 3172
- Passcode: 056041

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

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to Will Carry, Assistant Commissioner for Policy, New York City Department of Transportation, 55 Water Street, 9th Floor, New York, NY 10041.
- **Fax.** You can fax comments at 212-839-7188.

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 emailing rules@dot.nyc.gov or calling 212-839-6500 by August 26, 2024 and including your name and affiliation. While you will be given an opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can 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? Yes, the deadline for written comments is August 27, 2024 at 5 p.m.

What if I need assistance to participate in the Hearing? You must tell the DOT Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing other than the one(s) indicated above. You must tell us if you need a sign language interpreter. You can tell us by e-mailing at rules@dot.nyc.gov or calling 212-839-6500 by August 20, 2024.

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/>. Copies of the audio file of the hearing and copies of the written comments may be requested through the DOT Freedom of Information Law (FOIL) Office at <https://a860-openrecords.nyc.gov/> or 55 Water Street, 4th Floor, New York, NY 10041.

What authorizes DOT to make this rule? Sections 1043 and 2903(a) of the New York City Charter (City Charter) authorizes DOT to make this proposed rule. This rule was not included in DOT’s regulatory agenda as it was not anticipated when the agenda was published.

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

What rules govern the rulemaking process? DOT 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(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The Commissioner of the New York City Department of Transportation (DOT) is authorized to issue rules regarding parking and traffic operations in the City pursuant to Section 2903(a) of the New York City Charter. The rules that DOT is seeking to amend are contained within Chapter 4 of Title 34 of the Rules of the City of New York, relating to the “Traffic Rules”.

These rules are proposed pursuant to Local Law 131 of 2023 (“Local Law 131”), which requires the establishment of a trade-in program for powered mobility devices or lithium-

ion batteries used in powered mobility devices. While Local Law 131 authorizes DOT to implement a trade-in program for batteries and/or powered mobility devices, this program will only exchange powered mobility devices and their associated batteries together. The program will not include an option to trade-in uncertified batteries alone. This is for three reasons: First, there is no UL-certified battery that is universally compatible with the variety of powered mobility devices currently operating in New York City. Second, providing UL-certified mobility devices will remove substandard electric bicycles (“e-bikes”) and non-street legal mopeds from New York City streets. Third, it is a best practice to use an e-bike with the battery model specifically designed for that e-bike.

The proposed rules set forth application requirements, acceptable forms of proof, the criteria to determine eligibility, and DOT’s process for reviewing trade-in program applications.

Local Law 131 requires that devices provided through the trade-in program meet the requirements for sale enumerated by section 20-610 of the New York City Administrative Code. Section 20-610 requires that all powered bicycles, powered mobility devices, and associated batteries comply with UL standards 2849, 2272, and 2271.

After reviewing applicable UL standards, consulting with product safety specialists at UL Solutions and the New York City Fire Department, doing independent research, and working with other industry experts, DOT determined that device safety depends on the design and construction of the mobility device, the quality of the battery, and the interaction and compatibility of the mobility device and battery. To address these factors and maximize fire and street safety, DOT will provide a new, UL-certified e-bike with two compatible, UL-certified batteries to eligible applicants.

DOT will provide two compatible, UL-certified batteries based on feedback from delivery workers that a full day of work often requires two batteries. Providing two batteries will reduce the likelihood that participants will attempt to use uncertified, substandard batteries with their new devices.

DOT’s trade-in program will further support public safety by removing substandard e-bikes and non-street legal mopeds from New York City streets. Currently, many delivery workers use uncertified e-bikes and heavier electric and gas-powered mopeds which cannot be registered at the New York State Department of Motor Vehicles because they do not have Vehicle Identification Numbers. Accepting these illegal devices in exchange for UL-certified e-bikes and batteries will reduce crash risk and severity, help participants comply with local and state law, and increase trade-in program participation.

Specifically, the new section added to Chapter 4 of Title 34 of the RCNY is as follows:

- Section 4-22 is added establishing the trade-in program for powered mobility devices for food delivery workers.

“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.

New material underlined.

[Deleted material is in brackets]

Section 1. Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding a new section 4-22 to read as follows:

§ 4-22 Trade-in Program for Powered Mobility Devices.

(a) Definitions. For the purposes of this section, the following terms have the following meanings:

Administrative Code. The term “Administrative Code” means the Administrative Code of the City of New York.

Applicant. The term “applicant” means a natural person applying to receive a powered mobility device at no cost from the City of New York.

Eligible device. The term “eligible device” means a powered mobility device that does not meet the requirements for sale contained in § 20-610 of the Administrative Code, a motorized scooter as defined in subdivision a of § 19-176.2 of the Administrative Code, or a limited use motorcycle as defined in § 121-b of the New York state vehicle and traffic law.

Food delivery worker. The term “food delivery worker” has the meaning ascribed to such term by § 20-1501 of the Administrative Code.

Food service establishment. The term “food service establishment” has the meaning ascribed to such term by § 20-1501 of the Administrative Code.

Operable condition. The term “operable condition” means a powered mobility device, motorized scooter, or limited use motorcycle that performs its intended function.

Powered bicycle. The term “powered bicycle” means a class one bicycle with electric assist or a class two bicycle with electric assist, as such terms are defined in § 102-c of the New York state vehicle and traffic law.

Powered mobility device. The term “powered mobility device” means a powered bicycle or an electric scooter as defined in § 114-e of the New York state vehicle and traffic law.

Third-party courier service. The term “third-party courier service” has the meaning ascribed to such term by § 20-1501 of the Administrative Code.

Third-party food delivery service. The term “third-party food delivery service” has the meaning ascribed to such term by § 20-1501 of the Administrative Code.

Trade-in device. The term “trade-in device” means a powered mobility device that meets the requirements for sale contained in § 20-610 of the Administrative Code.

Trade-in event. The term “trade-in event” means a specific date, time and location where an applicant delivers an eligible device in exchange for a trade-in device.

Trade-in program. The term “trade-in program” means an initiative whereby eligible applicants receive up to one trade-in device from the City of New York at no cost in exchange for an eligible device.

(b) Eligibility. An applicant must:

- (1) Earn at least \$1,500, over the 12 months preceding the application submission period, as a food delivery worker at:
 - i. a food service establishment;
 - ii. a third-party food delivery service; or
 - iii. a third-party courier service.
- (2) Own an eligible device that is in operable condition;
- (3) Be at least 18 years of age; and
- (4) Reside in New York City.

(c) Application process. An applicant must submit the following information on forms prescribed by the Department:

- (1) Applicant’s name, address, date of birth, telephone number, and email address;
- (2) Name(s) of the food service establishment, third-party food delivery service, or third-party courier service where the applicant currently works or has actively worked as a food delivery worker within the 12 months preceding the application submission period;
- (3) A statement agreeing to abide by the terms and conditions of the trade-in program; and
- (4) Any other information as specified in the application.

(d) Acceptable forms of proof. An applicant must submit proof of the following information:

- (1) Applicant’s name and date of birth, by providing to the Department a copy of one of the following unexpired documents:
 - i. IDNYC card;
 - ii. Passport;
 - iii. NYS Benefit ID; or
 - iv. U.S. government-issued ID.

- (2) Residence, by providing to the Department a copy of one of the following unexpired documents that shows the applicant's address:
 - i. IDNYC card;
 - ii. U.S. government-issued ID;
 - iii. Utility bill, dated within the past 90 days;
 - iv. Telephone bill, dated within the past 90 days;
 - v. Any invoice mailed directly from billing company, dated within the past 90 days; or
 - vi. Any other document(s) approved by the Department.
- (3) Employment and earnings during the 12 months preceding the application submission period:
 - i. Tax returns including a W-2, 1099-NEC, or 1040 form from a food service establishment, a third-party food delivery service, or a third-party courier service;
 - ii. Bank statements showing direct deposits from a food service establishment, a third-party food delivery service, or a third-party courier service;
 - iii. Pay stubs from a food service establishment, a third-party food delivery service, or a third-party courier service;
 - iv. A letter from the employer confirming employment and earnings; or
 - v. Any other document(s) approved by the Department.
- (4) Eligible device; and
 - i. Photos showing the front, side/profile, and back of the eligible device; and
 - ii. Photos of the eligible device's battery.
- (5) Proof of ownership.
 - i. Attestation of ownership of the eligible device.

(e) Conditions of trade-in program participation. In exchange for a trade-in device, an applicant must:

- (1) Indemnify the City of New York against legal liabilities associated with the receipt, operation, or use of the trade-in device;
- (2) Comply with all applicable laws, rules, and regulations related to the operation of the trade-in device, including but not limited to § 10-157 of the Administrative Code;
- (3) Not resell the trade-in device for a period of one year after receipt of such device;
- (4) Complete a semiannual survey about the trade-in device and trade-in program by the Department;
- (5) Deliver the eligible device to the Department at a trade-in event for disposal;
- (6) If applicable, deliver all batteries used with the eligible device;
- (7) Demonstrate the eligible device is in operable condition;
- (8) Not modify the trade-in device in any way;
- (9) Service the trade-in device safely at a repair shop; and
- (10) Complete safety training course at a trade-in event.

- (f) Submission period. An applicant must submit the application within a time period prescribed by the Department.
- (g) Assignment of trade-in devices. At the conclusion of the submission period, the Department will review all applications and notify eligible applicants of the trade-in events. In the event that there are more eligible applicants than available trade-in devices, the Department will conduct a lottery to determine which eligible applicants will receive trade-in devices. Eligible applicants not selected for trade-in will be placed in a waitlist in numerical order. If a selected applicant does not attend their trade-in appointment or becomes ineligible, their trade-in opportunity will be assigned to the next eligible applicant on the waitlist.
- (h) Material Misrepresentations, Misstatements and Omissions. The Department may deny an application if the application is found to contain material misrepresentations, misstatements, or omissions.

§ 2. This rule takes effect as provided in section 1043(f) of the New York City Charter and expires and is deemed repealed on September 1, 2025.

**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: Rules Relating to Trade-In Program for Electric Powered Mobility Devices and Lithium Ion Batteries

REFERENCE NUMBER: 2024 RG 038

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
Senior Counsel

Date: June 7, 2024

**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: Rules Relating to Trade-In Program for Electric Powered Mobility
Devices and Lithium Ion Batteries**

REFERENCE NUMBER: DOT-79

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/ Jenny Ye

Mayor's Office of Operations

June 12, 2024

Date