

## 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 expand the categories of illegal behavior for which its Enforcement Officers can issue notices of violation (sometimes called a summons) in order to protect the natural environments under the jurisdiction of the Department and to increase the penalties associated with certain violations.

**When and where is the Hearing?** The Department will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 A.M. on October 9, 2024. The hearing will be in at the Chelsea Recreation Center located at 430 West 25<sup>th</sup> Street, Manhattan.

**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](mailto:nyc.rules@parks.nyc.gov).
- **Mail.** You can mail written comments to: NYC Parks, The Arsenal, 830 Fifth Avenue, New York, NY 10065 Attn: Christine Cochetoux, Room 313.
- **Fax.** You can fax written comments to 212-360-1373.
- **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 or emailing [nyc.rules@parks.nyc.gov](mailto:nyc.rules@parks.nyc.gov). You can also sign up in the hearing room before the hearing begins on October 9, 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 October 9, 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 September 27, 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 by 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 amend sections 1-04, 1-05 and 1-07 of chapter 1 of title 56 of the Rules of the City of New York. The proposed amendments would expand the categories of illegal behavior for which the Department's Enforcement Officers can issue a notice of violation (sometimes called a summons) in order to protect the natural environments under the jurisdiction of the Department and increase the penalties associated with certain violations.

Specifically, the proposed rules would:

**Amend section 1-04 of the Department's rules to prohibit the abandonment of animals.** Early in 2023, the Parks Department made national and international news when employees rescued an abandoned alligator from a lake in Prospect Park. Although the Department brought the wild animal to receive medical care, the alligator did not survive. Unfortunately, this was an example of behavior that happens all too often: pet owners, other individuals (including well-meaning individuals), pest control companies, and other companies release or relocate unwanted animals—exotic or otherwise—into parks. Many of these animals do not survive as they do not know where to find food, water, den sites, or other resources, and have no cognitive map of escape routes to flee from predators. Some of these animals are invasive and may permanently disrupt natural ecosystems. Abandoning animals is already prohibited by New York State Law, but a city rule prohibiting such abandonment would authorize Department officers to write summonses for such behavior and ultimately help decrease the number of animals abandoned in parks. The proposed rule falls under the Department's existing authority under NYC Administrative Code section 18-146(c)(7) to issue violations for "Failure to control animals." Specifically, this provision states that "No person owning, possessing or controlling any animal shall cause or allow such animal to be unleashed or out of control in a manner prohibited by the rules of the department."

The Department understands that there are limited circumstances where an animal might be responsibly released into New York City's natural areas, including parks. Therefore, the proposed rule includes exceptions for licensed New York State wildlife rehabilitators and Department employees who have received express written permission from the Commissioner.

**Amend section 1-05 of the Department rules relating to fishing to explicitly prohibit the collection of bivalves.** Bivalves (such as oysters, clams, mussels, and scallops) serve as natural water filters, and are therefore active contributors to the health of New York City's waterways. Although in other regions bivalves are harvested for food, the New York State Department of Environmental Conservation Rules prohibit the collection of bivalves for food within the waters in and surrounding the five boroughs of New York City. Nevertheless, the collection of these animals happens with some regularity. Ingestion of bivalves taken from New York City waters may carry health risks. In addition, removal of bivalves slows down the restoration of the City's waterways. Such removal also reduces water clarity, which results in a reduction of the amount of light that penetrates the water. This reduction can have a significant impact on other marine creatures.

The removal of bivalves is not currently prohibited under the Department's rules. This proposed amendment would prohibit the collection of bivalves from waters under the jurisdiction of the

Department, using access points under the jurisdiction of the Department, and using vessels launched from an access point under the jurisdiction of the Department. The proposed rule contains an exception for sample collecting as part of a scientific study, with the express approval of the Commissioner.

**Amend section 1-07 of the Department’s rules to add a penalty for abandonment of animals, increase the penalties for illegal dumping and add a penalty for subsequent instances of illegal dumping.** Illegal dumping is rampant in every borough of New York City and the Department uses a great amount of staff time to address and correct these conditions. The Department’s current penalty for illegal dumping is \$1,000, which is substantially less than the \$4,000 penalty for illegal dumping assessed by the Department of Sanitation (“DSNY”). The proposed amendment to the rule would increase the amount of the penalty for violations issued by the Department to make them comparable to the violations assessed by DSNY. The Department believes that these increased penalties will help to deter illegal dumping. The proposed new civil penalty is \$5,000 for the first dumping offense. The Department also proposes adding an increased penalty of \$10,000 for each subsequent offense within 12 months of the first offense in the hopes of deterring repeat offenders.

The Department’s authority for these rules is found in sections 389, 533(a)(9), and 1043 of the New York City Charter.

“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 text is underlined and deleted text is in brackets:**

**Section 1. Subdivision (i) of section 1-04 of chapter 1 of title 56 of the Rules of the City of New York is amended by adding a new paragraph (4) to read as follows:**

(4) Except for Department employees or licensed wildlife professionals authorized in writing by the Commissioner, no person owning, possessing, or controlling any animal shall knowingly cause or allow such animal to be abandoned or relocated into any park or onto any property under the jurisdiction of the Department under any circumstances. This paragraph shall not prohibit any individual from releasing wildlife that was accidentally trapped on, under, or inside of any building or structure under the jurisdiction of the Department.

**Section 2. Subdivision (h) of section 1-05 of chapter 1 of title 56 of the Rules of the City of New York is amended by adding a new paragraph (6), to read as follows:**

(6) Except for collections for scientific purposes expressly approved by the Commissioner, no bivalves (e.g., oysters, clams, mussels, and scallops) may be removed or harvested (i) from waters under the jurisdiction of the Department, (ii) utilizing an access point under the jurisdiction of the Department, or (iii) utilizing a vessel launched from an access point under the jurisdiction of the Department.

**Section 3. 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:**

<u>Section/Rule</u>	<u>Description</u>	<u>Penalty</u>	<u>Default Penalty</u>
56 RCNY § 1-04(i)(4)*; Admin. Code § 18-146(c)(7)	<u>Uncontrolled animal-animal abandonment</u>	<u>\$1,000</u>	<u>\$1,500</u>

**Section 4. 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 amending the row relating to the violation described as Unlawful dumping and by adding a new row immediately following that row, to read as follows:**

<u>Section/Rule</u>	<u>Description</u>	<u>Penalty</u>	<u>Default Penalty</u>
56 RCNY § 1-04(c)(3)*; Admin. Code § 18-146(c)(3)	Unlawful dumping	<del>[\$1,000]</del> <u>\$5,000</u>	<del>[\$1,500]</del> <u>\$5000</u>
56 RCNY § 1-04(c)(3)*; Admin. Code § 18-146(c)(3)	<u>Unlawful dumping-2<sup>nd</sup> or subsequent violation within 12 month period.</u>	<u>\$10,000</u>	<u>\$10,000</u>

**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:** Violations on Parks Property

**REFERENCE NUMBER:** 2024 RG 057

**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  
Senior Counsel

Date: June 6, 2024

**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: Violations on Parks Property**

**REFERENCE NUMBER: DPR-22**

**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) Does not provide a cure period because the violation cannot be undone or poses significant risk to public health or safety.

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

June 6, 2024  
Date