

New York City Department of Transportation

Notice of Adoption

NOTICE OF ADOPTION relating to amendments of the New York City Department of Transportation's (DOT) "Traffic Rules" contained in Chapter 4 of Title 34 of the Rules of the City of New York regarding the establishment of a trade-in program for powered mobility devices or lithium-ion batteries used in powered mobility devices.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the New York City Department of Transportation (DOT) by Sections 1043 and 2903(b) of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter that DOT hereby amends Chapter 4 of Title 34 of the Rules of the City of New York.

This rule was first published in the City Record on July 25, 2024 and a public hearing was held on August 27, 2024.

DOT carefully reviewed the seven verbal and written comments that were submitted in response to the proposed rule. The majority of the public comments were in support of the new rule. One comment provided e-bike brand and model recommendations. Another comment proposed an alternate disposal method for non-certified batteries. These topics are not appropriate to be addressed in the program rules, however, they will be considered as it relates to DOT's procurement and battery disposal process. One comment questioned the safety implications of distributing two batteries to each food delivery worker and suggested that only one battery be provided. DOT acknowledges the comment and reiterates its rationale that food delivery workers often require two batteries to complete a full day's work. Providing two batteries will reduce the likelihood that participants will attempt to use uncertified, substandard batteries with their new e-bikes.

After an internal review of the program rules, DOT made the following changes to section 4-22 in the adopted rule:

- Paragraphs (3), (4), and (5) of subdivision (d) were amended to clarify acceptable forms of proof of eligibility.
- Paragraph (4) of subdivision (d) was amended to add a new subparagraph (iii) that requires an applicant to submit photos of a spare or extra battery for their eligible device, if applicable. This change will allow DOT to account for the number of batteries it receives before a trade-in event and ensure proper arrangements are made for battery disposals.
- Paragraph (10) of subdivision (e) was amended to expand where and when an applicant may complete the required safety training course. This change will allow an applicant to complete the safety training course before the trade-in event.

Statement of Basis and Purpose of Adopted 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 rule that DOT has adopted will be contained within Chapter 4 of Title 34 of the Rules of the City of New York, relating to the “Traffic Rules.”

This rule is adopted 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 adopted rule sets 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’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 by providing to the Department a copy of one of the following:
 - 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 by providing to the Department all of the following:
 - i. Photos showing the front, side/profile, and back of the eligible device;
 - ii. Photos of the eligible device's battery; and
 - iii. Photos of the eligible device's spare or extra battery, if applicable.
- (5) Proof of ownership by providing to the Department an attestation of ownership of the eligible device in a form prescribed by the Department.

(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 a safety training course.

- (f) Submission period. An applicant must submit the application within a time period prescribed by the Department on its website.
- (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.