

MOTORIZED PEDICAB 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 to protect the public by prohibiting the use of motorized pedicabs by pedicab businesses 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 10:00 am on June 15th, 2015. 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 Mary Cooley, 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) 436-0392. You can also sign up in the hearing room before the hearing begins on June 15th, 2015. 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 June 15th, 2015.

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) 436-0392. You must tell us by June 12th, 2015.

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 1403 and 2203(f) of the City Charter and Section 20-104 of Subchapter 9 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 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 according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Subdivision c of section 20-249 of Title 20 of the New York City Administrative Code defines “pedicab” to mean “a bicycle as defined in the vehicle and traffic law or other device that is designed and constructed to transport or carry passengers, that is *solely propelled by human power* (emphasis added), and that is operated to transport passengers for hire.” Motorized pedicabs do not fall within this definition because they are not “solely propelled by human power.” Nor do they fall within the definition of “bicycle” under the New York State’s Vehicle and Traffic Law (“VTL”) (defining bicycle as a device “propelled by human power”) VTL § 102. Moreover, motorized bicycles may not be operated on public streets or highways, or be registered with the New York State Department of Motor Vehicles (“DMV”). <http://dmv.ny.gov/registration/motorized-devices-cannot-be-registered-new-york> (“You cannot register or operate” a “motor-assisted bicycle” on “any street, highway, parking lot, sidewalk or other area that allows public vehicle traffic”).

The proposed rule is necessary to protect the public by prohibiting the use of motorized pedicabs by pedicab drivers and pedicab businesses in New York City.

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

A new Section 2-431 is added to Subchapter GG of Chapter 2 of Title 6 of the Rules of the City of New York to read as follows:

§2-431 Motorized Pedicabs.

No pedicab business or pedicab driver shall, at any time, operate, or authorize the operation of, any pedicab that is propelled, in whole or in part, by any motor or other similar mechanical device of any kind, whether through electricity, internal combustion, or otherwise.

**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: Prohibition of Motorized Pedicabs

REFERENCE NUMBER: 2015 RG 042

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
Acting Corporation Counsel

Date: May 4, 2015

**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: Prohibition of Motorized Pedicabs

REFERENCE NUMBER: DCA-24

RULEMAKING AGENCY: DCA

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

May 5, 2015
Date