

**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION**

**NOTICE OF ADOPTION OF FINAL RULES GOVERNING THE REMOVAL AND
DISPOSAL OF DERELICT BICYCLES**

NOTICE IS HEREBY GIVEN in accordance with the requirements of Section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by section 753(a) and (b) of the New York City Charter and by sections 16-122 and 16-128 of the New York City Administrative Code that the Department adopts the following rule governing the removal and disposal of derelict bicycles. This rule adds a new section 1-05.1 of Chapter 1 of Title 16 of the Rules of the City of New York. The Department published a Notice of Opportunity to Comment on the proposed rules in the City Record on June 18, 2010, and subsequently published an amended notice that contained a different public hearing date and location on June 24, 2010. On August 10, 2010 the Department held a public hearing on the proposed rules. Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

Section 1. Chapter 1 of title 16 of the rules of the city of New York is amended by adding a new section 1-05.1 to read as follows:

§ 1-05.1 Removal of derelict bicycles.

(a) Definitions. When used in this section,

(1) "Derelict bicycle" shall mean any bicycle, that is not a ghost bike, which is affixed to public property and also contains three or more of the following characteristics:

(i) the bicycle appears to be crushed or not usable;

(ii) the bicycle is missing parts, other than the seat and front wheel, including, but not limited to handlebars, pedal or pedals, rear wheel and chain;

(iii) the bicycle has flat or missing tires;

(iv) the handlebars or pedals are damaged, or the existing forks, frames or rims are bent; or

(v) seventy-five percent or more of the bicycle, which includes the handlebars, pedals and frames are rusted, along with any chain affixing such bicycle to public property.

(2) “Ghost bike” shall mean a bicycle that has been placed on public property and apparently intended as a memorial for someone who is deceased, and which may be painted white or have a sign posted on or near it, or flowers or other mementos in the basket.

(3) “Public property” shall mean city property or property maintained by the city, or any public sidewalk or roadway, including, but not limited to any light pole, bus pole, parking meter, tree, tree pit, railing or similar structure. For purposes of this section, public property shall not include any bicycle rack installed by the department of transportation, any business improvement district or any private organization or entity authorized by the department of transportation.

(b) In the event that a derelict bicycle is affixed to public property, a notice shall be affixed to the derelict bicycle advising the owner that such derelict bicycle must be removed within seven days from the date of the notice. This notice shall also state that the failure to remove such derelict bicycle within the designated time period will result in the removal and disposal of the derelict bicycle by the department of sanitation.

(c) Nothing in this section shall preclude the immediate removal of any bicycle, including, but not limited to, a derelict bicycle or ghost bike, or the taking of any other action by any city agency if the presence of such bicycle which creates a dangerous condition by restricting vehicular or pedestrian traffic, or otherwise violates the law.

STATEMENT OF BASIS AND PURPOSE

The Commissioner of the New York City Department of Sanitation is authorized to adopt rules relating to street cleanliness pursuant to section 753(a) and (b) of the New York City Charter. Additionally, sections 16-122 and 16-128 of the New York City Administrative Code

empower the Department to remove “movable property”, also referred to as “encumbrances”, from public property.

The Department has noticed an increase in the number of bicycles affixed to public property including, but not limited to, traffic signs and parking meters throughout the City. Some of these bicycles have missing parts, are rusted, contain flat tires, are crushed and/or appear to be unusable. These bicycles are an eyesore, a potential public safety hazard and a constant source of complaints from residents, community groups and elected officials.

In order to alleviate the concerns of interested parties, including residents, community groups and bicycle owners, the Department proposes to establish criteria that will enable it to classify certain bicycles that are affixed to public property as derelict, and allow for their removal and disposal. Under the proposed criteria, a bicycle, that is not a ghost bike, will be deemed derelict only if (1) it is affixed to public property, which for purposes of this rule only, does not include bicycle racks installed by the Department of Transportation (“DOT”), any business improvement district or any private organization or entity authorized by DOT; and (2) such bicycle meets three or more of the following criteria: (i) the bicycle appears to be crushed or not usable; (ii) the bicycle is missing parts, other than the seat and front wheel (which are typically removed by a bicycle owner to prevent theft), including, but not limited to handlebars, pedal or pedals, rear wheel and chain; (iii) the bicycle has flat or missing tires; (iv) the handlebars or pedals are damaged, or the existing forks, frames or rims are bent; or (v) seventy-five percent or more of the bicycle, which includes the handlebars, pedals and frames are rusted, along with any chain affixing such bicycle to public property.

Once the Department makes the determination that a bicycle is derelict, a notice shall be affixed to the bicycle advising the owner that such bicycle must be removed within seven days from the date of the notice. DSNY decided to extend this time period from five days to seven days in order to give an owner more time to remove a derelict bicycle based on comments it received from the public. This notice shall also state that the failure to remove such bicycle within the designated time period will result in the removal and disposal of the derelict bicycle by the Department.

In response to comments DSNY received during the public comment period, DSNY has made several changes to the rule regarding “memorial bicycles,” commonly referred to in the bicycling community as “Ghost Bikes.” The rule defines “ghost bike” as a bicycle that has been placed on public property and apparently intended as a memorial for someone who is deceased, and which may be painted white or have a sign posted on or near it, or flowers or other mementos in the basket. Additionally, DSNY has exempted the inclusion of ghost bikes from the definition of derelict bicycles. As a result, under these rules ghost bikes will never be deemed to be derelict.

This rule does not authorize DSNY to remove for disposal from public property any ghost bikes or bicycles that do not meet the derelict bicycle criteria. Additionally, nothing in this rule shall be interpreted to preclude the immediate removal of any bicycle, including, but not limited to, a derelict bicycle or ghost bike, or the taking of any other action by any city agency if the presence of such bicycle creates a dangerous condition by restricting vehicular or pedestrian traffic or is otherwise in violation of the law.