

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed amendments to the rule governing the removal and disposal of derelict bicycles.

Date / Time: February 22, 2012
9:30 A.M. to 11:30 A.M

Location: 125 Worth Street, Room 819,
New York, New York

Contact: Madelynn Liguori, Associate Counsel
Bureau of Legal Affairs
New York City Department of Sanitation
125 Worth Street, Room 710
New York, New York 10013
mliguori@dsny.nyc.gov

Proposed Rule Amendment

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 proposes to adopt the following rule governing the removal and disposal of derelict bicycles. This rule amends Section 1-05.1 of Chapter 1 of Title 16 of the Rules of the City of New York.

- 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.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment to the office of the Deputy Commissioner for Legal Affairs, New York City Department of Sanitation, 125 Worth Street, Room 710, New York, New York 10013 by mail or electronically through NYC RULES at www.nyc.gov/nycrules by February 22, 2012.
- Persons seeking to testify are requested to notify the Deputy Commissioner at the above address.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Edna Luna by February 15, 2012 by fax at (212) 788-3876 or by mail at 125 Worth Street, Room 710, New York, New York 10013.
- Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between 9:00 a.m. and 5:00 p.m., at the office of the Deputy Commissioner.

The rule was not included in the Department's FY 2012 regulatory agenda because it was not contemplated at the time the Department published its FY 2012 regulatory agenda in the *City Record* on May 27, 2011.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule is to add bicycle racks to the definition of public property so as to allow the Department of Sanitation to remove derelict bicycles from these racks.

Since the initial rules regarding the removal of derelict bicycles from public property became effective on October 3, 2010, the City has received numerous complaints regarding derelict bicycles being affixed to bicycle racks. To alleviate the concerns of interested parties, including residents, community groups and bicycle owners, the Department is amending its definition of public property to include those bicycle racks that are installed by the Department of Transportation, its contractors, permittees or any other entity authorized to do so by the Department of Transportation,

The definition of public property will not include those docks or stations installed under authority of the Department of Transportation's Bikeshare Program, since the equipment utilized under the Program would be owned and operated by the vendor, who would be responsible for the maintenance of all Program bicycles.

Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

Section 1. Paragraph (3) of subdivision (a) of section 1-05.1 of Chapter 1 of title 16 of the rules of the city of New York is amended to read as follows:

§ 1-05.1 Removal of derelict bicycles.

(a) Definitions. When used in this section,

* * *

(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 bicycle rack, 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,] public property shall include any bicycle rack installed by the department of transportation, its contractors, permittees or other entity authorized by the department of transportation. Public property shall not include those docks or stations installed under authority of the department of transportation’s Bikeshare Program.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Removal and Disposal of Derelict Bicycles

REFERENCE NUMBER: 2011 RG 115

RULEMAKING AGENCY: Department of Sanitation

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: January 3, 2012

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: Amendment of Rules Governing Removal and Disposal of Derelict Bicycles

REFERENCE NUMBER: DSNY-1

RULEMAKING AGENCY: DSNY

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 Navarro
Mayor's Office of Operations

January 3, 2012
Date