

**City of New York
Office of Administrative Trials and Hearings**

Notice of Opportunity to Comment on Proposed Rule

What are we proposing? The Office of Administrative Trials and Hearings (OATH) proposes amending the table in subsection (a) of section 7-02 of chapter 7 of title 48 of the Rules of the City of New York, to reflect the new monetary penalties set forth in section 16-118(9) of the Administrative Code of the City of New York for second and third violations of littering, sweep-out, throw-out, and spitting, as amended by Local Law 131 of 2018, and to correct an error in a rule citation.

When and where is the Hearing? OATH will not hold a public hearing on this proposed rule pursuant to New York City Charter section 1043(e)(iii) on the grounds that a public hearing would serve no public purpose. OATH has no discretion over the new monetary penalties set forth in Administrative Code section 16-118(9), which are replicated in this proposed rule.

How do I comment on the proposed rules? Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to OATH through the NYC rules website at <http://rules.cityofnewyork.us/>.
- **Email.** You can email written comments to Rules_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to OATH, Attention: Simone Salloum, Senior Counsel, 100 Church Street, 12th Floor, New York, NY 10007.
- **Fax.** You can fax written comments to OATH, Attention: Simone Salloum, Senior Counsel, at 646-500-5742.

Is there a deadline to submit written comments? You may submit written comments up to 5:00 p.m. on **December 1, 2018**.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website at <http://rules.cityofnewyork.us/>. Copies of the written comments will be available to the public at OATH, 66 John Street, 10th Floor, New York, NY 10038.

What authorizes OATH to make this rule? Section 1049(4)(g) of the New York City Charter (city charter) authorizes OATH to make this proposed rule. This proposed rule was not included in OATH's regulatory agenda for this Fiscal Year because it was not anticipated at the time OATH published its regulatory agenda.

Where can I find OATH's rules? OATH's rules are in title 48 of the Rules of the City of New York.

What laws govern the rulemaking process? OATH must meet the requirements of Section 1043(b) of the city charter when creating or changing rules. This notice is made according to the requirements of Sections 1043(b) and 1049(4)(g) of the city charter.

Statement of Basis and Purpose of Proposed Rule

The Office of Administrative Trials and Hearings (OATH) proposes amending the table in subsection (a) of section 7-02 of chapter 7 of title 48 of the Rules of the City of New York (RCNY) to reflect the new monetary penalties set forth in section 16-118(9) of the Administrative Code of the City of New York (Administrative Code) for second and third violations of Administrative Code section 16-118(1) (littering, sweep-out, throw-out, and spitting), as amended by Local Law 131 of 2018.

Section 7-02(a) includes a table of violations eligible for community service, the monetary civil penalty, and the corresponding community service hour requirement. Effective November 28, 2018, Local Law 131 of 2018 amends section 16-118(9) to remove the penalty ranges for second and third violations of section 16-118(1) and sets a fixed penalty of \$300 for a second violation, and \$400 for a third violation of that provision. This proposed amendment reflects the increase in these penalties.

The proposed amendments also correct an error in the citation to 56 RCNY section 1-04(i), related to unleashed/uncontrolled animals in the park.

Pursuant to city charter section 1043(d)(4)(ii), this proposed rule is exempt from the certification requirements of section 1043(d).

New material is underlined.

[Deleted material is in brackets.]

Section 1. The following rows in the table in subsection (a) of section 7-02 of chapter 7 of title 48 of the Rules of the City of New York are amended to read as follows:

Citation in Summons	Description in Summons	Citation Monetary Penalty	Community Service Hour Requirement
Admin. Code § 16-118(1)(a), (b)	Littering, Sweep-out, throw-out, spitting	1st - \$75 2nd - \$[250] <u>300</u> 3rd - \$[350] <u>400</u>	1st - 1 2nd - 2 3rd - 3
56 RCNY § 1-04([1]i)	Unleashed/uncontrolled animals in park	\$100	1
56 RCNY § 1-04([1]i)	Unleashed/uncontrolled animals in park – second or subsequent violation within one year	\$250	2