

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Transportation (“DOT”) is proposing an amendment to DOT’s Traffic Rules regarding the operation of pedal-assist commercial bicycles in New York City. This proposed rule amends the definition of “pedal-assist bicycle” to “pedal-assist commercial bicycle” and establishes operating guidelines for pedal-assist commercial bicycles.

When and where is the Hearing? DOT will hold a public hearing on the proposed rule online. The public hearing will take place on Wednesday, September 13, 2023 at 10 a.m.

Join through Internet:

- To join the hearing via your browser either click on the following URL link or copy and paste it into your browser’s address bar.

<https://zoom.us/j/94953887092?pwd=V2xNelV6Vm9FTTAxbzZxYmNXbU9jQT09>

Join Zoom Meeting:

- Meeting ID: 949 5388 7092
- Password: 658250
- Then follow the prompts. If you have low bandwidth or inconsistent Internet connection, we suggest you use the phone option below for the hearing.

Join via phone only:

- To join the meeting only by phone, use the following information to connect:

Phone: 1-646-518-9805

Meeting ID: 949 5388 7092

Password: 658250

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

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to Diniece Mendes, New York City Department of Transportation, 55 Water Street, 6th Floor, New York, NY 10041.

- **Fax.** You can fax comments at 212-839-7777.
- **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 emailing rules@dot.nyc.gov or calling 212-839-6500 by Tuesday, September 12, 2023 and including your name and affiliation. While you will be given an opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, the deadline for written comments is September 13, 2023 at 5 p.m.

What if I need assistance to participate in the Hearing? You must tell the DOT Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing other than the one(s) indicated above. You must tell us if you need a sign language interpreter. You can tell us by e-mailing at rules@dot.nyc.gov or calling 212-839-6500 by September 5, 2023.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. Copies of the audio file of the hearing and copies of the written comments may be requested through the DOT Freedom of Information Law (FOIL) Office at <https://a860-openrecords.nyc.gov/> or 55 Water Street, 4th Floor, New York, NY 10041.

What authorizes DOT to make this rule? Sections 1043 and 2903(a) of the New York City Charter (City Charter) authorizes DOT to make this proposed rule. This rule was not included in DOT's regulatory agenda as it was not anticipated when the agenda was published.

Where can I find the Department of Transportation rules? DOT's rules are in Title 34 of the Rules of the City of New York.

What rules govern the rulemaking process? DOT 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

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 rules that DOT is seeking to amend are contained within Chapter 4 of Title 34 of the Rules of the City of New York, relating to the "Traffic Rules".

In December 2019, DOT launched the Commercial Cargo Bike Pilot program. Parcel industry representatives and other local carriers participated in testing cargo bicycles with pedal-assist in the New York city market. Between May 2020 and January 2021, the number of cargo bicycle deliveries increased 109%. In January 2021 alone, there were more than 45,000 cargo bicycle deliveries proving to be an effective mode for last mile delivery.

Parcel industry representatives and other local carriers have tested cargo bicycles with pedal-assist for use in the New York city market. With a 68% projected increase in freight in the city, deliveries in the last mile are the most costly part of the supply chain. The freight industry sees cargo bicycles with pedal-assist as an opportunity to test consolidation and smaller-scale deliveries in constrained urban spaces, with the concomitant benefits of avoiding tickets and reducing negative impacts on traffic and street safety. The pedal-assist features make cargo bicycles with pedal-assist easy to pedal even while carrying heavy loads. It is estimated that two bicycles can replace one delivery truck with CO₂ savings of approximately 14 tons/year, equivalent to 200 planted trees, or 30,872 passenger car miles traveled.

This proposed rule would broaden options for sustainable and efficient modes of parcel and goods delivery, and encourage the use of low- or no-emission vehicles for last-mile freight delivery as recently highlighted in New York City's (NYC) Delivering Green, DOT's Delivering New York and NYC Streets Plan by authorizing the last mile delivery of parcels and goods in the city by a type of pedal-assist bicycle, a "Pedal-Assist Commercial Bicycle" that may be up to 48 inches in width and have up to 4 wheels.

This rule is authorized by section 1642 of the Vehicle and Traffic Law (VTL) which authorizes DOT to adopt rules with respect to the regulation of devices moved by human power that may supersede provisions of the VTL on the same subject matter. Such authorization includes regulation of a type of electric bicycle, referred to as "pedal-assist" because they cannot operate without human power. In addition, the operation of a Pedal-Assist Commercial Bicycle as defined in these rules would not be prohibited by section 19-176.2 of the New York City Administrative Code.

This rule amends the current definition of pedal-assist bicycle to specify that it applies to a type of pedal-assist bicycle that may be up to 48 inches and have up to 4 wheels and that the operation of such a device in the city is lawful for delivery of goods and property in commerce. In addition, rules applicable to all bicycles would apply to pedal-assist commercial bicycles, with the addition of rules specifically for pedal-assist commercial bicycles. The proposed amendments to the Traffic Rules would be as follows:

- § 1: amends the definitions of "bicycle," and "pedal-assist bicycle" and adds a definition of "commercial bicycle" in Section 4-01 ("Words & Phrases Defined").
- § 2: amends section 4-08(a)(3)(i) to include a "Commercial Bicycle Loading Only" sign as a dedicated use sign.
- § 3: amends section 4-08(o)(3)(ii) to include Commercial Bicycle Loading Only as a prohibited area for agency-authorized parking.
- § 4: amends section 4-08(o)(4)(iii) to include Commercial Bicycle Loading Only as a prohibited area for single-use permits.
- § 5: amends 4-12(j) (1) to prohibit advertising on bicycles.

- § 6: amends section 4-12 (p)(5) to include additional pedal-assist commercial bicycle regulations.
- § 7: amends section 4-12(p) by adding a new paragraph (8) to include commercial bicycle regulations.

“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. Subdivision (b) of Section 4-01 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by amending two definitions and adding one definition to read as follows:

Bicycle. "Bicycle" means every two- or three-wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or gears, with such wheels in a tandem or tricycle, except that it will not include such a device having solid tires and intended for use only on a sidewalk by pre-teenage children. For the purposes of these rules the term bicycle includes [a] pedal-assist [bicycle] commercial bicycles as defined in this section; and bicycles with electric assist as defined in section 102-c of the vehicle and traffic law.

Commercial bicycle. A bicycle used to transport property in commerce.

Pedal-assist commercial bicycle. A “pedal-assist commercial bicycle” shall mean a [bicycle] device upon which a person may ride equipped with a belt, a chain or gears, fully operable pedals and an electric motor of less than seven hundred fifty watts (one horsepower) whereby such motor engages only when the operator is pedaling and the rate of speed of such bicycle is less than 20 miles per hour, and disengages or ceases to function when (i) the operator applies the brakes, (ii) the operator stops pedaling, or (iii) such bicycle achieves a speed of twenty miles per hour and which is (A) more than 36 inches but no more than 48 inches wide and equipped with 2, 3, or 4 wheels or (B) no more than 36 inches wide and equipped with 4 wheels. A pedal-assist commercial bicycle shall not be equipped with any throttle capacity or have any additional motorized equipment affixed to it. A pedal-assist commercial bicycle shall not be more than seventy-eight (78) inches in height or more than one hundred twenty (120) inches in length, including any attached trailer. A pedal-assist commercial bicycle shall only be used to transport property in commerce. For the purposes of this definition, the term “trailer” means a device not propelled by its own power and towed by a pedal-assist commercial bicycle.

§ 2. Subparagraph (i) of paragraph (3) of subdivision (a) of Section 4-08 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(i) **Dedicated use signs.** Standing is prohibited when a dedicated use is specified by a sign, including but not limited to the following curb regulations: Commercial Vehicles Only, Truck Loading Only, Taxi Stand, Taxi Relief Stand, Authorized Vehicles Only, NYP License

Plates Only, Doctor License Plates Only, For-Hire Vehicles Only, Ambulance Only, Ambulette Only, Medical Facility Only, Bus Layover Only, NYS Road Test Only, Flea Market Loading Only, Farmers Market Only, Waiting Line, Carshare Parking Only, Pedal Vehicle Charging Only, Commercial Bicycle Loading Only, or Parking Permitted.

§ 3. Subparagraph (ii) of paragraph (3) of subdivision (o) of Section 4-08 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(ii) Parking not permitted. Parking with and display of agency-authorized permits in the windshield of a vehicle or, where applicable, a permit affixed to the vehicle by the department or an agency authorized by the department is not permitted at:

- (A) "No Standing" areas[.],
- (B) "No Stopping" areas[.],
- (C) Fire hydrants[.],
- (D) Bus stops[.],
- (E) Areas on the roadway side of a vehicle stopped, standing, or parked at the curb (i.e., Double parking) [.],
- (F) Driveways[.],
- (G) Bridges and highways[.],
- (H) Areas where a traffic hazard would be created[.],
- (I) Carshare parking space(s) [.], and
- (J) "Commercial Bicycle Loading Only" zones.

§4. Subparagraph (iii) of paragraph (4) of subdivision (o) of Section 4-08 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(iii) Parking not permitted. Parking with single issue permits is not permitted at:

- (A) "No Standing" areas,
- (B) "No Stopping" areas,
- (C) Fire hydrants,
- (D) Bus stops,

- (E) Double parking,
- (F) Driveways,
- (G) On bridges and highways,
- (H) In carshare parking space(s), [and]
- (I) Areas where a traffic hazard would be created[.], and
- (J) “Commercial Bicycle Loading Only” zones.

§5. Paragraph (1) of subdivision (j) of Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(1) *Restrictions.* No person shall operate, stand, or park a vehicle or bicycle on any street or roadway for the purpose of commercial advertising. Advertising notices relating to the business for which a vehicle is used may be put upon a motor vehicle when such vehicle is in use for normal delivery or business purposes, and not merely or mainly for the purpose of commercial advertising, provided that no portion of any such notice shall be reflectorized, illuminated, or animated, and provided that no such notice shall be put upon the top of the vehicle and that no special body or other object shall be put upon vehicles for commercial advertising purposes. Advertisements may be put upon vehicles licensed by the New York City Taxi and Limousine Commission in accordance with the Commission's rules.

§6. Paragraph 5 of subdivision (p) of Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:

(5) Additional requirements for pedal-assist commercial bicycles.

[A] (i) No person shall operate or park a pedal-assist commercial bicycle on any public highway in the city of New York unless such bicycle has permanently affixed in a prominent location on the electric motor of the bicycle or elsewhere on the bicycle a legible original label of the manufacturer of the bicycle and/or of the electric motor containing the maximum motor-assisted speed and motor wattage of the bicycle.

[B] (ii) All pedal-assist commercial bicycles and their operators must comply with the provisions of Article 34 of the New York State Vehicle and Traffic Law relating to the operation of bicycles, except as provided in Section 4-02(e) of these rules.

[C] (iii) A pedal-assist commercial bicycle that has been modified in any of the following ways shall not be considered a pedal-assist commercial bicycle and may not be operated or parked on any public highway:

- [1] A. Any modification that increases the output of such bicycle to seven hundred fifty watts or greater;

[2] B. Any modification that prevents the motor from disengaging when (i) the operator applies the brakes , (ii) the operator stops pedaling, or (iii) the bicycle achieves a speed of twenty miles per hour; or

[3] C. Any modification that accelerates the speed of the pedal-assist commercial bicycle motor by means other than pedaling.

(iv) A pedal-assist commercial bicycle may not be parked on a sidewalk, while attended or unattended, except temporarily for the purpose of and while actually engaged commercially in loading and unloading property.

§7. Subdivision (p) of Section 4-12 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding a new paragraph (8) to read as follows:

(8) Additional requirements for commercial bicycles.

(i) Commercial bicycles must display a color contrasting identification label on both sides of each bicycle indicating the name or symbol of the business in which such bicycle is used and if more than 1 bicycle is used a unique ID number assigned by the business.

(ii) Commercial bicycles may park or stand in commercial bicycle loading only zones when actively engaged commercially in loading or unloading property and for the duration of the posted sign.

(iii) Commercial bicycles may park or stand in the parking lane on a street wherever commercial vehicles may park or stand including commercial vehicle metered parking or truck loading zones and shall be exempt from paying parking meter fees. Bicycles must be parked perpendicular to the curb provided there is space for the passage of a vehicle between the bicycle and the center of the street.

**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: Operation of Pedal-Assist Commercial Bicycles on City Streets

REFERENCE NUMBER: DOT-71

RULEMAKING AGENCY: Department of Transportation

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) Cure periods are not provided for violations of the traffic rules.

/s/ Francisco X. Navarro
Mayor's Office of Operations

August 4, 2023
Date

**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: Operation of pedal-assist commercial bicycles on city streets

REFERENCE NUMBER: 2023 RG 007

RULEMAKING AGENCY: Department of Transportation

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
Senior Counsel

Date: August 4, 2023