

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

**PROPOSED 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 proposes to adopt 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. Existing provisions to be deleted are shown below in brackets and new provisions are underlined.

Written comments regarding this proposed rule may be sent 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 or comments may be submitted electronically through NYC RULES at www.nyc.gov/nycrules on or before July 20, 2010. In addition, a public hearing regarding the proposed amendment will be held on July 20, 2010 at 125 Worth Street, Room 819, New York, New York from 9:30 A.M. to 11:30 A.M. Persons seeking to testify are requested to notify the Deputy Commissioner at the foregoing address. Persons who request that a language interpreter or sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify Edna Luna by July 13, 2010. Ms. Luna may be contacted 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 the hours of 9:00 a.m. and 5:00 p.m. at the office of the Deputy Commissioner. Dated: June 18, 2010. John J. Doherty, Commissioner.

The rule was not included in the Department's FY 2011 regulatory agenda because it was not contemplated at the time the Department published its FY 2011 regulatory agenda in the *City Record* on May 7, 2010.

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 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 rider” shall mean a derelict 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 five 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) Notwithstanding subdivision (b) of this section, in the event that a ghost rider is affixed to public property, a notice shall be affixed to the ghost rider advising the owner that such ghost rider must be removed within thirty days from the date of the notice. This notice shall also state that the failure to remove such ghost rider within the designated time period will result in the removal and disposal of the ghost rider by the department of sanitation.

(d) Nothing in this section shall preclude the immediate removal of any bicycle, including a derelict bicycle or ghost rider, 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 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 five days from the date of the notice. 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.

The proposed rule also allows for an exception for "memorial bicycles," commonly referred to in the bicycling community as "Ghost riders." The rule define "ghost rider" as a derelict 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. In the event that a ghost rider is affixed to public property, a notice shall be affixed to the ghost rider advising the owner that such ghost rider must be removed within thirty days from the date of the notice. This notice shall also state that the failure to remove such ghost rider within the designated time period will result in the removal and disposal of the ghost rider by the department of sanitation.

This rule does not authorize DSNY to remove for disposal from public property any 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 a derelict bicycle or ghost rider, 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.