



New York City Department of Health and Mental Hygiene
Notice of Public Hearing and Opportunity to Comment on Proposed Amendment of
Chapter 7 of Title 24 of the Rules of the City of New York

What are we proposing?

The New York City Department of Health and Mental Hygiene (“Department”) proposes to amend its rules to change the fine for failure to remove canine waste from a public area. The new penalty matches the maximum fine amount provided in the New York State Public Health Law.

When and where is the hearing?

The Department will hold a public hearing on the proposed rule change from 10AM to 12PM on July 15, 2019 at

New York City Department of Health and Mental Hygiene
Gotham Center
42-09 28th Street, 20th floor, Room 20-29
Long Island City, NY 11101-4132

This location is wheelchair accessible.

How do I comment on the proposed rules?

Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department through the NYC rules website at <http://rules.cityofnewyork.us>
- **Email.** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail.** You can mail written comments to:
New York City Department of Health and Mental Hygiene
Attn: Svetlana Burdeynik
Gotham Center, 42-09 28th Street, CN 31
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to the Department at 347-396-6087.
- **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 calling Svetlana Burdeynik at 347-396-6078. You can also sign up in the hearing room before the hearing begins. You can speak for up to 3 minutes.

Is there a deadline to submit written comments?

Written comments must be received on or before 5:00 p.m. on July 15, 2019.

What if I need assistance to participate in the hearing?

You must tell the Department’s Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 5:00 p.m. on July 1, 2019.

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/>. A few days after the hearing, copies of all comments submitted online,

copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Department's Office of the General Counsel.

What authorizes the Department of Health and Mental Hygiene to make these rules?

Sections 555(b)(2), 556, 558(b) and (e), and 1043 of the New York City Charter and §3.11(a) of the New York City Health Code authorize the Department to make this proposed rule.

Where can I find the Department's rules?

The rules of the Department can be found in Title 24 of the Rules of the City of New York.

What laws govern the rulemaking process?

The Department must meet the requirements of §1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of City Charter §1043.

Statement of Basis and Purpose

In 2018, Chapter 7 of Title 24 of the Rules of the City of New York ("RCNY") was repealed and re-promulgated to, among other things, provide a list of monetary penalties associated with violations of the New York City Health Code and other applicable law or regulations.

This proposed rule change would amend the Chapter 7 penalty associated with failure to remove canine waste by aligning it with the maximum penalty prescribed in state law. With certain exceptions, New York State Public Health Law § 1310 ("PHL § 1310") requires a dog owner or person having possession, control or custody of a dog to remove any feces left by such dog from any public area. PHL § 1310 provides that a violation of that duty is punishable by a fine of not more than \$250. Currently, Appendix 7-A of Chapter 7 of 24 RCNY sets the initial penalty for failure to remove canine waste at \$100 with a default penalty of \$200. The Department proposes to amend the penalty for both an initial and default violation to match the \$250 penalty provided in PHL § 1310.

Statutory Authority

This proposed amendment is authorized by PHL § 1310; New York City Charter §§ 555(b)(2), 556, 558(b) and (e) and 1043; and § 3.11 of the Health Code.

- PHL § 1310 provides that a failure to remove canine waste from a public space is punishable by a fine not exceeding \$250.
- Section 555(b)(2) of the Charter authorizes the Commissioner of Health and Mental Hygiene to assess penalties for health-related regulations.
- Section 556 of the Charter authorizes the Department to regulate all matters affecting health in the City of New York.
- Section 558 of the Charter authorizes the Board of Health to set civil penalties for the enforcement of the Health Code.
- Section 1043 of the Charter gives the Department rulemaking powers.
- Section 3.11 of the Health Code provides the penalty range for violations of the Health Code or applicable law or regulation.

New material is underlined.

[Deleted material is in brackets.]

Section 1. The penalty for NYS PHL § 1310 contained in Appendix 7-A of Chapter 7 of Title 24 of the Rules of the City of New York is amended to read as follows:

Section of Law	Violation Description	Standard Penalty	Default Penalty
NYS PHL 1310	Failure to remove canine waste	[100] <u>250</u>	[200] <u>250</u>