

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

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Office of Administrative Trials and Hearings (OATH) pursuant to New York City Charter section 1049(4)(g) that OATH amends sections 7-02, 7-03, and 7-05 of Chapter 7 of Title 48 of the Rules of the City of New York, concerning the community service program established by OATH pursuant to subdivision four of New York City Charter section 1049, which was added by Local Law 73 of 2016.

The proposed rule was published in *The City Record* on July 18, 2018, and a public hearing was held on August 17, 2018. No one attended or testified at the public hearing concerning this rule and OATH did not receive any written comments.

Statement of Basis and Purpose of Rule

OATH amends sections 7-02, 7-03, and 7-05 of Chapter 7 of Title 48 of the Rules of the City of New York concerning OATH's community service program, mandated by New York City Charter section 1049(4). These amendments reflect changes to the process by which a respondent may choose community service and request extensions to complete community service. These amendments also restructure the community service hour requirements.

OATH began offering community service to eligible respondents in June 2017 as part of the Criminal Justice Reform Act. The following amendments to Chapter 7 reflect changes in process that OATH will implement as part of its continued evaluation and review of the community service program:

- Clarifies that respondents do not have to choose community service during the hearing. If found in violation, eligible respondents will receive a decision that provides the option either to pay the monetary penalty or to complete community service. If an eligible respondent wants to complete community service, the respondent now must contact OATH's community service provider after the hearing. The prior process required the hearing officer to offer the community service before the hearing had concluded. The new process will allow respondents a greater opportunity to learn more about the community service program before making the decision to perform community service.
- Removes the deadline to request an extension to complete community service in order to give more flexibility to the community service provider in granting community service extensions.
- Restructures the community service hour requirements to lower the hour requirements for higher penalties while complying with the benchmark set forth in New York City Charter section 1049(4). This will enable a greater number of respondents to participate in the community service program.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subdivisions (a) and (b) of Sections 7-02 of Chapter 7 of Title 48 of the Rules of the City of New York are amended to read as follows:

(a) Except as provided in subdivision (c), a Respondent who admits the charge or is found responsible at a hearing for any Specified Violation can perform Community Service instead of paying a monetary civil penalty. The Specified Violations, monetary civil penalties, and corresponding Community Service hour requirements are found below:

Citation in Summons	Description in Summons	Citation Monetary Penalty	Community Service Hour Requirement
Admin. Code § 10-125	Public Consumption of Alcohol	Up to \$25	1
56 RCNY § 1-05(f)(1)	Unauthorized consumption/possession of alcoholic beverage	\$25	1
56 RCNY § 1-05(f)(2)	Appearing in park under the influence of alcohol, endangering self or others	\$50	1
Admin. Code § 16-118(1)(a), (b)	Littering, Sweep-out, throw-out, spitting	1st - \$75 2nd - \$250 3rd - \$350	1st - 1 2nd - [3] <u>2</u> 3rd - [6] <u>3</u>
56 RCNY § 1-04(c)(1)	Littering or unlawful use of park waste receptacle	\$50	1
Admin. Code § 16-118(6)	Public Urination	1st - \$75 2nd - \$250 3rd - \$350	1st - 1 2nd - [3] <u>2</u> 3rd - [6] <u>3</u>
56 RCNY § 1-03(a)(3)	Unauthorized presence in park when closed to public	\$50	1
56 RCNY § 1-03(b)(6)	Failure to have/display/comply with required permit	\$50	1
56 RCNY § 1-03(c)(1)	Failure to comply with directives of police, park supervisor, lifeguard, peace officer	\$250	[3] <u>2</u>
56 RCNY § 1-03(c)(2)	Failure to comply with directives of other Department employee	\$150	2
56 RCNY § 1-03(c)(3)	Failure to comply with directions/prohibitions on signs	\$50	1
56 RCNY § 1-04(a)(1)	Destruction or abuse of Department property that causes significant damage or expense	\$1,000	[12] <u>6</u>
56 RCNY § 1-	Injury, defacement, abuse, etc. of	\$100	[2] <u>1</u>

Citation in Summons	Description in Summons	Citation Monetary Penalty	Community Service Hour Requirement
04(a)(2)	Department property		
56 RCNY § 1-04(b)(1)(ii)	Defacement or writing upon a tree	\$200	[3] <u>2</u>
56 RCNY § 1-04(b)(1)(iii)	Defacement, killing, etc. of vegetation.	\$200	[3] <u>2</u>
56 RCNY § 1-04(b)(2)	Walking on/permitting animal or child to walk on newly seeded grass	\$50	1
56 RCNY § 1-04(b)(3)	Walking/permitting animal or child to walk in fenced area	\$50	1
56 RCNY § 1-04(b)(4)	Unauthorized possession of gardening tool/plant	\$50	1
56 RCNY § 1-04(b)(5)	Unauthorized use of metal detector	\$50	1
56 RCNY § 1-04(c)(4)	Storing/leaving unattended personal belongings	\$50	1
56 RCNY § 1-04(d)	Possession of glass container	\$50	1
56 RCNY § 1-04(e)(1)	Aviation - bringing/landing aerial device in park, endangering person or property	\$500	[6] <u>3</u>
56 RCNY § 1-04(f)(1)	Possession of a firearm/propellant/explosive etc.	\$500	[6] <u>3</u>
56 RCNY § 1-04(g)(1)	Harming animals, nests, or eggs; Possessing or distributing animals or eggs.	\$1,000	[12] <u>6</u>
56 RCNY § 1-04(g)(2)	Unauthorized feeding of animals	\$50	1
56 RCNY § 1-04(1)	Unleashed/uncontrolled animals in park	\$100	[2] <u>1</u>
56 RCNY § 1-04(1)	Unleashed/uncontrolled animals in park – second or subsequent violation within one year	\$250	[3] <u>2</u>
56 RCNY § 1-04(j)(1), § 3-18(b)	Failure to remove canine waste	\$100	[2] <u>1</u>
56 RCNY § 1-04(j)(2)	Horse carriage without horse hamper/control for horse waste	\$100	[2] <u>1</u>
56 RCNY § 1-04(k)	Unlawful urination/defecation in park.	\$50	1
56 RCNY § 1-04(l)(1)	Disorderly behavior – unauthorized access/trespass	\$50	1
56 RCNY § 1-04(l)(2)(i)	Disorderly behavior – climbing	\$50	1
56 RCNY § 1-	Disorderly behavior – climbing	\$200	[3] <u>2</u>

Citation in Summons	Description in Summons	Citation Monetary Penalty	Community Service Hour Requirement
04(1)(2)(ii)	statue or artwork in manner that could damage it		
56 RCNY § 1-04(1)(3)	Disorderly behavior – fee evasion	\$50	1
56 RCNY § 1-04(1)(4)	Disorderly behavior – gambling	\$50	1
56 RCNY § 1-04(1)(5)(i)	Disorderly behavior – render park road dangerous	\$100	[2] <u>1</u>
56 RCNY § 1-04(1)(5)(ii)	Disorderly behavior – render park dangerous	\$50	1
56 RCNY § 1-04(1)(6)	Disorderly behavior – fighting/assault	\$150	2
56 RCNY § 1-04(1)(7)	Disorderly behavior – sexual activity	\$100	[2] <u>1</u>
56 RCNY § 1-04(1)(8)	Disorderly behavior – endanger safety of others	\$250	[3] <u>2</u>
56 RCNY § 1-04(1)(9)	Disorderly behavior – operation of bike, motor vehicle, etc. that endangers safety of other person or property	\$500	[6] <u>3</u>
56 RCNY § 1-04(n)	Unlawful exposure	\$50	1
56 RCNY § 1-04(o)	Obstruction of benches, sitting areas	\$50	1
56 RCNY § 1-04(p)	Unlawful camping	\$250	[3] <u>2</u>
56 RCNY § 1-04(q)	Spitting on park building/monument/structure	\$50	1
56 RCNY § 1-04(r)	Unauthorized use of fountain/pool/water for personal/animal hygiene	\$50	1
56 RCNY § 1-04(s)(1)	Unlawful commercial activity or speech	\$100	[2] <u>1</u>
56 RCNY § 1-04(s)(2)	Soliciting money or property without permit	\$50	1
56 RCNY § 1-05(a)(1)	Unpermitted event that significantly interferes with ordinary park use	\$500	[6] <u>3</u>
56 RCNY § 1-05(a)(2)	Unpermitted special event/demonstration	\$250	[3] <u>2</u>
56 RCNY § 1-05(a)(3)	Structure/stand/booth etc. without permit	\$250	[3] <u>2</u>
56 RCNY § 1-05(b)	Unlawful vending	\$250	[3] <u>2</u>
56 RCNY § 1-05(b)(1)	Unlawful vending – second or subsequent violation within one	\$500	[6] <u>3</u>

Citation in Summons	Description in Summons	Citation Monetary Penalty	Community Service Hour Requirement
	year		
56 RCNY § 1-05(b)(2)	Unlawful vending of expressive matter in violation of Department rules	\$500	[6] <u>3</u>
56 RCNY § 1-05(c)	Unlawful display of signs	\$50	1
56 RCNY § 1-05(d)(1)	Unreasonable noise	\$50	1
56 RCNY § 1-05(d)(2)	Operating sound reproduction device without required permit	\$140	[2] <u>1</u>
56 RCNY § 1-05(d)(3)	Playing instrument/radio, etc. during unauthorized hours	\$140	[2] <u>1</u>
56 RCNY § 1-05(g)	Failure to comply with beach/boardwalk/pool restrictions	\$50	1
56 RCNY § 1-05(h)	Failure to comply with fishing restrictions	\$50	1
56 RCNY § 1-05(i)	Failure to comply with bicycle riding and/or pedicab restrictions	\$50	1
56 RCNY § 1-05(i)(1)	Failure of pedicab or bike operator to comply with sign	\$150	2
56 RCNY § 1-05(k)(1)	Failure to comply with ice skating restrictions	\$50	1
56 RCNY § 1-05(k)(2)	Going upon a frozen lake or pond without authorization	\$50	1
56 RCNY § 1-05(l)	Planting tree/flower/shrubbery/other vegetation without written approval	\$50	1
56 RCNY § 1-05(m)(1)	Failure to comply with fire restrictions	\$50	1
56 RCNY § 1-05(m)(2)	Unlawful disposal of flammable materials	\$50	1
56 RCNY § 1-05(n)	Unauthorized driving/parking/automotive work	\$50	1
56 RCNY § 1-05(q)	Failure to comply with horse riding restrictions	\$50	1
56 RCNY § 1-05(r)(1)	Area use restrictions - sports in unauthorized area	\$50	1
56 RCNY § 1-05(r)(2)	Area use restrictions - unauthorized toy or model aviation, boating, automobiling, etc.	\$50	1
56 RCNY § 1-05(r)(3)(i)	Area use restrictions - unauthorized skating/skiing/	\$200	[3] <u>2</u>

Citation in Summons	Description in Summons	Citation Monetary Penalty	Community Service Hour Requirement
	skateboarding/sledding/etc. endangering person or property		
56 RCNY § 1-05(r)(3)(ii)	Area use restrictions - unauthorized skating/skiing/skateboarding/sledding, etc.	\$50	1
56 RCNY § 1-05(s)(1)	Failure to comply with exclusive children playground restriction	\$50	1
56 RCNY § 1-05(s)(2)	Failure to comply with exclusive senior citizen area restrictions	\$50	1
56 RCNY § 1-05(s)(3)	Failure to comply with dog run restrictions	\$50	1
56 RCNY § 1-05(t)	Unauthorized distribution/demonstration of products	\$100	[2] <u>1</u>
56 RCNY § 1-05(u)	Failure to comply with in-line skating restrictions	\$50	1
Admin. Code § 24-218(a)	Causing or permitting unreasonable noise (7 A.M. to 10 P.M.)	1st - \$75 2nd - \$150 3rd - \$350	1st - 1 2nd - 2 3rd - [6] <u>3</u>
	Causing or permitting unreasonable noise (10 P.M. to 7 A.M.)	1st - \$75 2nd - \$150 3rd - \$350	1st - 1 2nd - 2 3rd - [6] <u>3</u>

(b) A Respondent is eligible for Community Service if the Respondent appears in person before a Hearing Officer and admits to a Specified Violation alleged in a summons, or if the Specified Violation is sustained at a hearing. Respondent need not opt for community service at the time of the hearing.

§ 2. Subdivision (a) of Section 7-03 of Chapter 7 of Title 48 of the Rules of the City of New York is REPEALED, a new subdivision (a) is added and subdivision (b) of such section is amended to read as follows:

(a) A Respondent eligible for Community Service as set forth in § 7-02 of this chapter will receive a Decision that gives Respondent the option either to complete Community Service by a specified date or to pay the applicable monetary civil penalty. If the Respondent wants to perform Community Service, the Respondent must contact the Community Service Provider to schedule Community Service.

(b) [Where a Respondent has chosen the option of Community Service pursuant to subdivision (a), a Hearing Officer will issue a Decision that orders completion of the Community Service by a specified date and orders that the applicable monetary civil penalty be reinstated if Respondent fails to complete the Community Service by the specified date.] If the Respondent fails to

complete the Community Service as set forth in §§ 7-04 and 7-05 of this chapter, the applicable monetary civil penalty will be reinstated. The monetary civil penalty will be due and owing thirty (30) days from the date of the Decision, or thirty-five (35) days if the Decision is mailed.

§ 3. The opening paragraph of Subdivision (c) of Section 7-05 of Chapter 7 of Title 48 of the Rules of the City of New York is amended to read as follows:

A Respondent may request an extension of time to complete the Community Service through the Community Service Provider [up to one day] prior to the deadline to complete the Community Service specified in the Decision.



**THE CITY OF NEW YORK
LAW DEPARTMENT**

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Hon. Fidel Del Valle
Commissioner and Chief Administrative Law Judge
Office of Administrative Trials and Hearings

Re: Amendments to Community Service Program Rules

No. 2018 RG 084

Dear Commissioner Del Valle:

Pursuant to New York City Charter § 1043 subd. c, the above-referenced rule has been reviewed and determined to be within the authority delegated by law to your agency.

Sincerely,

STEVEN GOULDEN
Senior Counsel
Division of Legal Counsel

cc: Simone Salloum (OATH)