

## NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The Department of Environmental Protection (DEP) is proposing to amend its rules to define the term “adjacent” as it relates to vehicle idling as set forth in section 24-163 of the Administrative Code.

**When and where is the hearing?** DEP will hold a public hearing on the proposed rule online. The public hearing will take place at 11 am on March 7, 2024. To participate in the public hearing, please follow these instructions:

#### Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 244 505 317 117

Passcode: CX82Vn

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 347-921-5612,,911593701#](#)

Phone Conference ID: 911 593 701#

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

- **Website.** You can submit comments to the DEP through the NYC rules web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [nycrules@dep.nyc.gov](mailto:nycrules@dep.nyc.gov).
- **Mail.** You can mail written comments to the DEP Bureau of Legal Affairs, 59-17 Junction Boulevard, 19<sup>th</sup> Floor, Flushing, NY 11373.
- **Fax.** You can fax written comments to the DEP Bureau of Legal Affairs, at 718-595-6543.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling 718-595-6531. You can also sign up in the hearing room before the hearing begins on March 7, 2024. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by March 7, 2024.

**What if I need assistance to participate in the hearing?** You must tell the 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 718-595-6531. Advance notice is required to allow sufficient time to arrange the accommodation. Please tell us by February 29, 2024.

**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 written comments will be available to the public at the Bureau of Legal Affairs.

**What authorizes the DEP to make this rule?** Section 1043 of the City Charter and sections 24-105 and 24-163 of the Administrative Code authorize DEP to make this proposed rule. This proposed rule was not included in DEP's regulatory agenda for this fiscal year.

**Where can I find DEP's rules?** DEP's rules are in Title 15 of the Rules of the City of New York.

**What rules govern the rulemaking process?** DEP must meet the requirements of section 1043(c) 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**

Section 24-163 of the Air Pollution Control Code (Air Code) prohibits the idling of a motor vehicle for more than three minutes while it is stopped, standing or parked, unless the vehicle is "adjacent" to a school property, in which case, under subdivision (f), idling is limited to one minute.

On May 12, 2023, Local Law 58 of 2023 was enacted. This law extends the one-minute prohibition to vehicles adjacent to or within "any park under the jurisdiction of the [Parks Department]", and directs DEP to promulgate a rule to define "adjacent" for this purpose.

DEP is proposing this rule to implement Local Law 58.

Section 39-02 of Title 15 of the Rules of the City of New York currently defines "adjacent" for purposes of the existing law relating to school property. This definition states: "'Adjacent' shall mean on each and every street on which a school is located and has entrances and/or exits to such street..."

DEP proposes to repeal this definition and replace it with a single definition of "adjacent" that will apply to vehicles that are parked, stopped, or standing in proximity to either a school or park property.

The proposed rule provides that an idling vehicle is adjacent to school or park property when any part of such vehicle is in a lane of traffic that abuts park or school

property and when any part of the vehicle itself abuts such property. This definition, which is illustrated by a diagram, provides a clear and objective standard. It is also as close as possible to the dictionary definition of “adjacent”, which is “very near, or with nothing in between”.<sup>1</sup> DEP is undertaking an environmental review as required by CEQR to evaluate the potential impact of the establishment of the definition of “adjacent”.

New material is underlined. Deleted material is shown in [brackets].

The text of the proposed rule follows.

Section 1. Section 39-02 of Chapter 39 of Title 15 of the Rules of the City of New York is amended to read as follows:

§ 39-02 Adjacent to Any Public or Non-Public School or Any Park Under the Jurisdiction of the New York City Department of Parks and Recreation.

["Adjacent" shall mean on each and every street on which a school is located and has entrances and/or exits to such street. School shall include any building or structure, playground, athletic field or other property that is part of the school.]

(a) **Adjacent.** A motor vehicle is adjacent to any public or non-public school or any park under the jurisdiction of the New York city department of parks and recreation when: (i) such vehicle is parked, stopped, or standing within a lane of traffic that abuts park or school property; and (ii) any part of such motor vehicle abuts school or park property. A lane of traffic includes through traffic lanes, bus lanes, all forms of bike lanes, turning bays, parking areas, and shoulders.

(b) *Example.*

(1) In this example, vehicles 1a, 1b, & 1c are not adjacent to the school or park property. Vehicle 1a is not adjacent because it is parked across the street from school or park property and therefore is not within a lane of traffic that abuts school or park property. Vehicle 1b is not adjacent because although it is within a lane of traffic that abuts school or park property, no part of the vehicle itself abuts school or park property. Vehicle 1c is not adjacent because it is separated from the school or park property by non-school or non-park property.

(2) In this example, Vehicle 2a and 2b are adjacent to the school or park property. Vehicle 2a is adjacent to the school or park property because the vehicle is within a lane of traffic that abuts the school or park property and part of the vehicle itself abuts such school or park property. Vehicle 2b is adjacent because it is within a lane of traffic that abuts the school or park property and the vehicle itself fully abuts such school or park property.

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<sup>1</sup> Cambridge Dictionary. Retrieved December 7, 2023, from <https://dictionary.cambridge.org/dictionary/english/adjacent>



