

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The New York City Department of Finance (“the Department”) is proposing an amendment to its rules to permit respondents to present additional evidence at an appeals hearing conducted before the Parking Violations Bureau. This amendment sets forth detailed rules concerning a respondent’s right to present additional evidence, in the interest of justice and upon consent of the appellant, not presented to the Administrative Law Judge at the trial court hearing.

When and where is the hearing? The Department will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 am on April 22, 2016. The hearing will be in the Department hearing room at 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

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

- **Website.** You can submit comments to the Department through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rubing@finance.nyc.gov.
- **Mail.** You can mail written comments to NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201, Attn: Garret Rubin.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Garret Rubin at (718) 403-3650.
- **Hearing.** You can speak at the public 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 Joan Best at (718) 488-2007, or you can sign up in the hearing room before the hearing begins on April 22, 2016 at 11:00 AM. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is April 22, 2016.

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 may tell us by mail at the address given above, sent to the attention of Joan Best; by telephone, by calling Joan Best at (718) 488-2007; or by e-mail at bestj@finance.nyc.gov. You must tell us by April 1, 2016.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website: <http://rules.cityofnewyork.us/>. In addition, copies of all submitted comments concerning the proposed rule and a summary of oral comments from the hearing will be available to the public a few days after the hearing at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

What authorizes Department of Finance to adopt this rule? New York State Vehicle and Traffic Law sections 237 and 239, section 19-203 of the Administrative Code of the City of New York, and New York City Charter (“Charter”) sections 1043 and 1504 authorize the Department to adopt this proposed rule.

Where can I find the Department of Finance’s rules? The Department’s rules can be found in Title 19 of the Rules of the City of New York at <http://rules.cityofnewyork.us>.

What laws govern the rulemaking process? The Department must meet the requirements of section 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of section 1043 of the Charter.

STATEMENT OF BASIS AND PURPOSE

The Department of Finance’s Parking Violation Bureau adjudicates parking summonses issued in New York City. An Administrative Law Judge (ALJ) conducts a hearing and writes a decision and order that includes a finding of fact and conclusion of law after a review of all the evidence presented. If the ALJ finds the respondent guilty, the respondent can appeal the decision to an appeals panel within 30 days. Currently, the appeals panel may only review the case for errors of fact or law or jurisdictional defects in the summons and is bound by the record established at the hearing. No additional evidence may be reviewed except in the very limited circumstance where that evidence was not reasonably available at the time of the hearing.

These proposed new rules seek to allow the respondent to submit on appeal additional or new evidence in the interest of justice and upon consent of the respondent.

Matter underlined is new. Matter in brackets [] is to be deleted.

“Will” 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.

Amendments to Rules Relating to Parking Violations

§1. Paragraph (2) of subdivision (a) of Section 39-12 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) The Appeals Board may review the facts and the law in any matter [,] and, except in the interests of justice and upon consent of the respondent, shall not consider any evidence which was not presented to the administrative law judge. A concurring vote by two members of the Appeals Board panel will be required to make a determination on an appeal.

**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: Amendment of Parking Violation Bureau Appeal Procedure

REFERENCE NUMBER: 2015 RG 116

RULEMAKING AGENCY: New York City Department of Finance

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
Acting Corporation Counsel

Date: March 3, 2016

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: Amendment of Parking Violation Bureau Appeal Procedure

REFERENCE NUMBER: DOF-20

RULEMAKING AGENCY: Department of Finance

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) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

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

March 3, 2016
Date