

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Finance (“DOF”) is proposing various rules and amendments to DOF’s rules concerning its Adjudications Division. These proposed rules and amendments revise and add defined terms, update pronoun and capitalization usage, correct ministerial spelling and defined term reference errors and update and clarify procedures and rules to conform to current practices and to improve operational efficiencies.

When and where is the hearing? DOF will hold a public hearing on the proposed rules. The public hearing will take place at 11:00 A.M., August 3, 2023. The hearing will be conducted remotely through Webex Event Center. To participate in the public hearing, enter the Webex URL <https://nycdof.webex.com>. If prompted to provide a password or number, please enter the following: Meeting number: 2331 475 1728, Password: PVADJ72023, Host key: 832033.

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

- **Website.** You can submit comments to DOF 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, 375 Pearl Street, 30th Floor, New York, NY 10038, Attn: Garret Rubin.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Garret Rubin, at (212) 748-6982.
- **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 Joan Best at (212) 748-7214. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is August 3, 2023.

What if I need assistance to participate in the hearing? Please contact DOF’s Legal Affairs Division 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 make any accommodation request by mail at the address given above. You may also make such request by contacting Joan Best; by telephone, by calling (212) 748-7214; TTY (212) 504-4115 or by e-mail at bestj@finance.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please provide at least five business days' notice prior to the hearing to ensure availability.

This hearing has the following accessibility options available: Simultaneous transcriptions for people who are deaf or hard of hearing and audio-only access; American Sign Language interpretation on video. For audio-only access, call 408-418-9388. The meeting access code is 2331 475 1728.

Can I review the comments made on the proposed rules? You can review the comments that have been submitted online by visiting the NYC Rules website: <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 rules will be available to the public at NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038.

What authorizes DOF to adopt these rules? New York State Vehicle and Traffic Law ("VTL") section 237, section 19-203 of the Administrative Code of the City of New York, and New York City Charter ("Charter") sections 1043 and 1504 authorize DOF to adopt these proposed rule amendments. These proposed rules were not included in DOF's regulatory agenda for this Fiscal Year because they were not contemplated when DOF published the agenda.

Where can I find DOF's rules? DOF's rules can be found in Title 19 of the Rules of the City of New York.

What laws govern the rulemaking process? DOF 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

DOF's Adjudications Division adjudicates parking summonses issued in New York City. These proposed rules revise and add defined terms, update pronoun and capitalization usage, correct ministerial spelling and defined term reference errors and update and clarify procedures and rules to conform to current practices and improve operational efficiencies of the Adjudications Division and certain special purpose units to further promote the efficient adjudication of parking summonses for the general public and business community of New York City. DOF is authorized to promulgate these proposed rules under VTL section 237, section 19-203 of the Administrative Code of the City of New York, and Charter sections 1043 and 1504.

Specifically, the proposed rules and amendments are as follows:

- Section one of this proposed rule would amend 19 RCNY § 39-01 in order to amend the definitions of "Business Entity," "Car Rental Program," "Commercial Abatement Program," "Commercial Organization," "Fleet Program," "Operator," "Parking Violations Bureau," "primary filing" and "Stipulated Fine Program" and to add new definitions for "Commercial Adjudication Unit (CAU)," "electronic case folder" and "meter number."
- Sections two, nine, ten, eleven, fourteen, twenty-one, twenty-two, twenty-seven, twenty-eight, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six of this proposed rule would amend 19 RCNY §§ 39-02(d), 39-05(o), 39-08(a)(2), (b)(1), (b)(2) and (h), 39-09(a)(9), (b)(2), (b)(9) and (c)(3), 39-10(h)(2), (j)(1), (j)(2), (j)(3) and (j)(5), 39-12(d)(1), (e) and (g)(1) and 39-14(d) to update pronoun usage.
- Sections three, four, eight, eleven, fifteen, seventeen, nineteen, twenty-one, twenty-two, twenty-four through twenty-seven of this proposed rule would amend 19 RCNY §§ 39-02(e)(1) and (e)(2), 39-03(c), 39-05(i), 39-08(c), 39-09(a)(2), (a)(3), (a)(4), (a)(8), (a)(9), (b)(2), (b)(3), (b)(4), (b)(8) and (b)(9) to update outdated terms and defined terms and correct spelling and capitalization errors.
- Section five of this proposed rule would amend 19 RCNY § 39-03(f) to permit a hearing to be conducted without the presence of a Fleet Program company or their representative if they have not submitted their evidence for their in-person hearing within the required time frame.
- Sections six and seven of this proposed rule would amend 19 RCNY § 39-04(a)(2), (b) and (c) to update the procedures for entering pleas and the payment of fines and penalties with a guilty plea.
- Section eleven of this proposed rule would amend 19 RCNY § 39-08(b)(3) to permit the Director to determine the method of hearings conducted at the Adjudications Division.
- Section twelve of this proposed rule would amend 39-08(d)(2) to add a requirement to provide the email address of counsel on a notice of appearance.
- Section thirteen of this proposed rule would amend RCNY § 39-08(f)(2) to clarify that evidence submitted at a hearing must be in a form prescribed by the Director and that all testimony presented at a hearing would be given upon an oath or affirmation issued by an Administrative, Senior or Supervising Law Judge, where appropriate based on policies established by the Bureau.
- Section fifteen of this proposed rule would amend 19 RCNY § 39-09(a)(2) to update the procedures regarding broker registration. This provision would work in tandem with

existing rules to allow appropriate flexibility to the Director to manage the affairs of the Bureau.

- Section fifteen of this proposed rule would amend 19 RCNY § 39-09(a)(4) to require that a company represented by a broker must be registered in the Fleet Program.
- Sections sixteen and twenty-three of this proposed rule would repeal 19 RCNY § 39-09(a)(5) and (b)(5) establishing a hearing log procedure. Section twenty-nine of this rule would add a new subdivision (d) to section 19 RCNY § 39-09 requiring that a respondent, unpaid representative, or any other type of representative consolidate at least the minimum number of summonses into an electronic case folder (ECF) authorized by the Director for a hearing or appeal at the Commercial Adjudication Unit (CAU). This section twenty-nine would also clarify the decision format for CAU hearings and set CAU evidence procedures.
- Section eighteen of this proposed rule would amend 19 RCNY § 39-09(a)(8) to update and clarify the rules regarding broker conduct.
- Section twenty of this proposed rule would amend 19 RCNY § 39-09(a)(8) by adding two new paragraphs (xiii) and (xiv) to promulgate additional broker conduct rules with respect to brokers complying with their clients' instructions and receipt of payment for a parking summons.
- Section twenty-two of this proposed rule would amend 19 RCNY § 39-09(b)(2) to update the procedures regarding employee registration.
- Section twenty-two of this proposed rule would amend 19 RCNY § 39-09(b)(4) to require that a company represented by an employee must be registered in the Fleet Program.
- Sections twenty-four through twenty-five of this proposed rule would amend 19 RCNY § 39-09(b)(8) to update and clarify the rules regarding employee conduct.

New material is underlined.

[Deleted material is in brackets.]

“Shall” 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. The definitions of “Business Entity,” “Car Rental Program,” “Commercial Abatement Program,” “Commercial Organization,” “Fleet Program,” “Operator,” “Parking Violations Bureau,” “primary filing” and “Stipulated Fine Program” in section 39-01 of Title 19 of the Rules of the City of New York are amended and such section is further amended by adding new definitions for “Commercial Adjudication Unit (CAU),” “Electronic case folder” and “meter number” in appropriate alphabetical order to read as follows :

Business [entity] Entity. "Business [entity] Entity" means a corporation, partnership, organization or other entity engaged in business, but does not include an individual person or persons.

Car [rental program] Rental Program. "Car [rental program] Rental Program" means a voluntary enrollment program whereby a lessor, upon registering vehicles and paying fees in accordance with 19 RCNY § 39-11(b), receives computer-generated hearing logs and can schedule hearings in PVB's Commercial Adjudication Unit [(CAU)].

Commercial Abatement Program. "Commercial Abatement Program" means a voluntary enrollment program whereby [commercial organizations] Commercial Organizations that are enrolled in the Fleet Program and meet the eligibility criteria established in 19 RCNY § 39-03.2, but are not eligible for the Stipulated Fine Program pursuant to 19 RCNY § 39-03.1, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to 19 RCNY § 39-03.2.

Commercial Adjudication Unit (CAU). "Commercial Adjudication Unit" or "CAU" means a special purpose hearing part of PVB that adjudicates summonses issued to Commercial Organizations and Business Entities.

Commercial Organization. "Commercial Organization" means any [business entity] Business Entity that is an owner or lessee of at least one vehicle that is used exclusively for the delivery of goods or services.

Electronic case folder. "Electronic case folder" or "ECF" means an electronic file folder generated for the adjudication of parking summonses, which may include any summons, evidence, a written defense, the decision and order, and the hearing audio.

Fleet Program. "Fleet Program" means a voluntary enrollment program whereby [commercial organizations] Commercial Organizations receive computer-generated hearing logs and can schedule hearings in the Parking Violation Bureau's [(PVB's)] Commercial Adjudication Unit [(CAU)] pursuant to 19 RCNY § 39-03.

Meter number. "Meter number" means, as applicable:

1. the identification number of a parking meter, as defined in 34 RCNY § 4-01, in circumstances where parking time has been purchased using such a parking meter; or
2. the applicable zone number included on posted signage or within a mobile payment application for the side of a block where a motor vehicle is parked in on-street or off-street parking areas, in circumstances where a timed receipt is dispensed to be displayed on the dashboard of such vehicle or in a visible and secure place on a motorcycle or parking time has been purchased using an authorized electronic communication device.

Operator. Whenever used, the term "operator" [shall mean] means any person, corporation, firm, agency, association or organization that uses, operates or is responsible for a vehicle at the time

the violation occurs, with or without the permission of the owner, and an owner who operates [his or her] their or its own vehicle.

Parking Violations Bureau (PVB). "Parking Violations Bureau" or "PVB" is an administrative tribunal in the New York City Department of Finance established to accept pleas to, and to hear and determine charges of traffic infractions relating to parking violations within the City of New York, to provide for monetary fines, penalties and fees for such violations, and to enter and enforce judgments of the Bureau in the same manner as the enforcement of money judgments in civil actions.

Primary filing. "Primary filing" means the initial filing of registration plate numbers by a lessor or [commercial organization] Commercial Organization prior to the commencement of each fiscal year.

Stipulated Fine Program. "Stipulated Fine Program" means a voluntary enrollment program whereby [commercial organizations] Commercial Organizations that make expeditious pick-ups, deliveries and/or service calls and that are enrolled in the Fleet Program and meet the eligibility criteria established in 19 RCNY § 39-03.1, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to 19 RCNY § 39-03.1.

§ 2. Subdivision (d) of section 39-02 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) *Certified copies of notice of violation (summons).* The Bureau shall provide, upon request of the respondent or [his or her] their attorney or authorized agent, certified copies of summonses issued to that respondent. The fee for such certified copies shall be one dollar (\$1.00) per copy. The Director may prescribe procedures for application for such copies, and/or the waiving of the aforementioned charge.

§ 3. Subdivision (e) of section 39-02 of Title 19 of the Rules of the City of New York is amended to read as follows:

(e)(1) *Notice of violation (summons) Copies.* A respondent is entitled to one request of up to five free summons copies (in judgment or not in judgment). Beginning with copy number 6 in any single request, or any additional requests within thirty days of the previous request, there will be a charge of \$1.00 per summons copy.

This rule applies to all respondents, including [commercial organizations] Commercial Organizations, except as provided in paragraph (2) of this subdivision. Note that the respondent is entitled to only five free copies per request, not per plate.

(2) *Indigent respondents.* Notwithstanding any other provision of this subdivision, a Senior [Hearing] Administrative Law Judge, a Supervising Administrative Law Judge, the Chief Administrative Law Judge, the Special Counsel for Adjudications, the First Deputy Commissioner

of Finance or the Commissioner of Finance may authorize, without fee, the provision of summons copies to which a fee is otherwise applicable under this subdivision, to a respondent who is a natural person for the purpose of defending against a charged parking violation or moving to open a default judgment, upon the respondent making affidavit or sworn statement on the record that the respondent is unable to pay the fee and demonstrating the indigence of the respondent. Such affidavit or sworn statement [shall] must also state the reason the copy of each summons that was served at the time of occurrence is unavailable and, in the case of a motion to open default judgment, the basis of excusable neglect.

§ 4. Subdivision (c) of section 39-03 of Title 19 of the Rules of the City of New York is amended to read as follows:

(c) Plates may be commercial or non-commercial and must be registered with the Department of Motor Vehicles under the company's name and address upon enrollment and all times during enrollment. A vehicle leased by a long-term lease by the company from a lessor that is a [business entity] Business Entity may be enrolled; provided, however, that if not registered by the company then the lease agreement must be in the name of the company or a subsidiary/parent and the registrant must consent in writing to designate the company as its agent to receive notices of violation, notices of impending default in judgment, and other PVB notices as if the registrant itself had been served. At PVB's request, the company must supply copies of the registrations, lease agreements and other information. Failure to meet these requirements may result in the deletion of plates and/or termination of the company's enrollment in the Fleet Program without prior notice.

§ 5. Subdivision (f) of section 39-03 of Title 19 of the Rules of the City of New York is amended to read as follows:

(f) Within 60 days from the Department of Finance system entry date for the summons, the company must pay the fine for each summons it does not contest. If the company wishes to contest a summons at an in-person hearing, the company must request a hearing, in accordance with 19 RCNY § 39-08, and [be prepared to arrange to appear] submit its evidence at such hearing, within 60 days from the Department of Finance system entry date for the summons; provided that if such company does not submit its evidence at such in-person hearing within that 60 day period, such hearing may be conducted without the presence of the respondent, representative, broker or employee.

§ 6. Paragraph (2) of subdivision (a) of section 39-04 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) A plea may be entered in person or by representative at any [borough hearing office] business center listed in 19 RCNY § 39-08(a) or by ordinary mail, through a website maintained or controlled by the Department, or by any other electronic medium as determined by the Director.

§ 7. Subdivisions (b) and (c) of section 39-04 of Title 19 of the Rules of the City of New York are amended to read as follows:

(b) [~~Mailed~~] Submission of pleas; completion of plea form. Pleas [by mail] entered by the respondent [shall] must be made by:

(1) [Entering] Submitting the desired plea on the plea form on [the back of the summons] paper, through a website maintained or controlled by the Department or on any other electronic medium as determined by the Director;

(2) [Entering his or her] Submitting their name and address in the space provided on the plea form on paper, through a website maintained or controlled by the Department or on any other electronic medium as determined by the Director;

(3) Signing the plea form; and

(4) Mailing [the notice of violation (summons) with], submitting or uploading the completed plea form [completed], by appropriate form of mail or electronic submission, to the mailing or electronic address or website stated on the notice of violation (summons).

(c) Pleas of guilty; payment. Pleas of guilty [shall] must be accompanied by a check [or], money order or other form of payment, electronic or otherwise, as prescribed by the Director, for the payment in full of the scheduled fines as listed in 19 RCNY § 39-05 and 19 RCNY § 39-06 and the penalties as listed in 19 RCNY § 39-07.

§ 8. Paragraph (i) of a subdivision entitled “scheduled fines” set forth in section 39-05 of Title 19 of the Rules of the City of New York is amended to read as follows:

(i) Standing or parking of vehicle with [commerical] <u>commercial</u> plates without the name and address of the owner properly marked on the vehicle in violation of 34 RCNY § 4-08(k)(1)	\$100.00
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§ 9. Paragraph (o) of a subdivision entitled “scheduled fines” set forth in section 39-05 of Title 19 of the Rules of the City of New York is amended to read as follows:

(o) Parking in violation of officially posted street cleaning rules, unless such rules have been suspended by the Commissioner of Transportation or [his or her] <u>their</u> designee	\$50.00
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§ 10. Paragraph (2) of subdivision (a) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) The Director, in [his or her] their discretion, may establish such special purpose hearing parts, and at such locations as deemed necessary.

§ 11. Subdivisions (b) and (c) of section 39-08 of Title 19 of the Rules of the City of New York are amended to read as follows:

(b) *Time schedule for hearings.*

(1) Hearing parts shall meet on days and at times as the Director shall from time to time in [his or her] their discretion determine, upon appropriate notice to the public.

(2) The Director, in [his or her] their discretion, may set additional times and days for hearings or limit, reduce or vary the time and days for hearings, to meet the needs of the Bureau, upon appropriate notice to the public.

(3) [Reserved] The Director, in their discretion, may determine for such hearing parts whether such hearing is conducted in-person or via another method, in order to meet the needs of the Bureau based on considerations of efficiency, workload, staffing and other resources, in accordance with this section, 19 RCNY § 39-09, 19 RCNY § 39-12, 19 RCNY § 39-15 and 19 RCNY § 39-19, upon appropriate notice to the public.

(c) [*Hearing examiner*] Administrative Law Judge to preside. Every hearing shall be held before an Administrative Law Judge, Senior Administrative Law Judge, or Supervising Administrative Law Judge. All hearings shall be public.

§ 12. Paragraph (2) of subdivision (d) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) *Counsel*. Appearance by Counsel shall not be recognized unless such attorney shall have filed a proper notice of appearance. The notice of appearance [shall] must contain the name, office address, email address and telephone number of the attorney. No other attorney shall be permitted to appear for the respondent in such matter without an order in writing or made at open hearing by an administrative law judge. (See 19 RCNY § 39-09 – Representatives at Parking Violations Bureau Hearings.)

§ 13. Paragraph (2) of subdivision (f) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) Evidence may be presented [in any form] in a form as prescribed by the Director based on considerations of efficiency, workload, staffing and other resources. All testimony shall be given

on oath or affirmation issued by an administrative law judge, supervising administrative law judge or senior administrative law judge, where appropriate based on policies established by the Bureau.

§ 14. Subdivision (h) of section 39-08 of Title 19 of the Rules of the City of New York is amended to read as follows:

(h) *Subpoenas.* The administrative law judge may, in [his or her] their discretion, or at the request of the Respondent on a showing of good cause and need therefor, issue a subpoena to compel the appearance at a hearing of the officer who served the notice of violation or of other persons to give testimony, and may issue a subpoena duces tecum to compel the production for examination or introduction into evidence of any book, paper or other thing relevant to the charges alleged.

§ 15. Paragraphs (2), (3), and (4) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(2) *Rules and authorization.* The rules set forth in paragraph (8) of subdivision (a) of this section apply to brokers appearing before the Department of Finance in any capacity, which include but are not limited to: the [fleet program, stipulated fine program, commercial abatement program, car rental program] Fleet Program, Stipulated Fine Program, Commercial Abatement Program, Car Rental Program, hearings by mail or web, CAU hearings, and scheduling and billing.

A broker must register with the Department of Finance before representing a respondent before the Department of Finance in any capacity by submitting such forms as prescribed by the Department of Finance and receiving approval of such forms by the Department of Finance. [Such registration] For the broker to represent a respondent, the broker must [be on] submit a Broker Authorization Form prescribed by the Department of Finance. The Broker Authorization Form must be:

(i) signed by a duly authorized principal, officer or partner of the respondent;
(ii) duly acknowledged before a Notary Public; and
(iii) mailed to PVB by certified mail, return receipt requested, or hand delivered to the Fleet Program Manager, who will issue a receipt. The Broker Authorization Forms will be filed in a central location in the Commercial Adjudication Unit (CAU). Upon revocation of the authorization of a broker to represent a person or company, it is the joint and several responsibility of the broker and the person or company to notify PVB within seven days by certified mail, return receipt requested.

(3) *Hearing location and schedule.* All hearings involving brokers shall be conducted by appointment only in CAU. No other location or unit (e.g. [Help] Business Centers) shall schedule or conduct hearings for respondents represented by brokers.

(4) *Fleet [program and car rental program] Program and Car Rental Program*. [All respondents represented by a] A broker [must register] shall not represent a respondent unless such respondent is registered in the Fleet Program [, if eligible]. For vehicles registered in either the Fleet Program or the Car Rental Program, no hearing will be allowed without a PVB computer-generated log.

§ 16. Paragraph (5) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York, relating to preparation of hearing logs, is REPEALED.

§ 17. Subparagraphs (i), (ii) and (iii) of paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(i) Brokers [shall] must observe in good faith the laws and regulations governing the adjudication of parking violation summonses and any forms and instructions provided to the broker by the Department of Finance.

(ii) Brokers must exercise due diligence in:

(1) Learning and obeying applicable statutes, rules, and instructions governing the disposition of, or agreements concerning payment of, parking violation summonses, in full, before the CAU;

(2) Complying with [schedules for appearances,] scheduling and creating ECFs, and submitting evidence for hearings; and

(3) Ensuring that their oral and written arguments [and], statements, and evidence submitted to the Department of Finance are correct.

(iii) A broker who knows or has reason to believe that a respondent has made a factual error in or omission from a document submitted at or prior to the hearing must advise the respondent promptly of such error or omission. A broker [shall] must urge the applicant to correct the error and promptly submit the corrected information. If the applicant refuses to do so, the broker must withdraw from representation for the summons(es) where continued representation would violate this section.

§ 18. Subparagraphs (viii), (ix) and (x) of paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(viii) Brokers must not attempt to initiate conversations or correspondence about particular cases with the ALJ before or after the hearing. At the hearing brokers must discuss the scheduled matters only. Brokers must not telephone [or], write, or otherwise communicate with the ALJ or other employees of the Department of Finance before or after the hearing with additional arguments.

(ix) Brokers must not attempt to influence any ALJ or employee of the Department of Finance by the use of threats, false accusations, intimidation or coercion; promises of advantage; or the presenting or offer of any gift, favor or thing of value. A broker must report promptly any such acts of which the broker is aware to the New York City Department of Investigation.

(x) Brokers must not engage in disrespectful conduct [in appearing before] when communicating with an ALJ regarding Parking Violations Bureau business at any time through means including, but not limited to, using abusive language or disrupting a hearing.

§ 19. Subparagraph (xii) of paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(xii) Brokers must not request any Department of Finance clerical staff to perform non-routine tasks. All such requests must be addressed directly to and approved by the CAU Manager. "Nonroutine" means anything out of the regular processing stream.

§ 20. Paragraph (8) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York is amended by adding new subparagraphs (xiii) and (xiv) to read as follows:

(xiii) Every broker must follow the directions of their clients to pay or contest parking violation summonses. A broker shall not contest a summons where a client has instructed the broker to plead guilty and pay the summons. A broker shall not plead guilty to a summons where a client has instructed the broker to contest the summons.

(xiv) A broker in receipt of a payment from a client for a parking violation summons must remit in a timely manner a payment to the Department of Finance to pay the applicable summons in accordance with applicable laws and rules.

§ 21. Paragraph (9) of subdivision (a) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(9) *Penalty for violation of these rules.* Any broker or brokerage company who willfully or repeatedly violates these rules may be barred from representing clients at PVB in any capacity. The Commissioner may, after providing notice to the broker and, if the brokerage company is also subject to suspension, the brokerage company, and an opportunity to be heard, suspend the broker for any period up to life from appearing before the Department of Finance in any capacity, except that the broker may appear on parking violations issued in the broker's name, and/or suspend a brokerage company for any period up to and until the dissolution of the brokerage company from appearing before the Department of Finance in any capacity, except that the brokerage company may appear on parking violations issued in the brokerage company's name.

Such notice(s) will inform the broker and, if the brokerage company is subject to suspension, the brokerage company, of the reasons for the proposed suspension and that the broker and the brokerage company, if the brokerage company is subject to suspension, has the right to present information as to why the broker and/or brokerage company should not be suspended to the Commissioner, or [his or her] their designee, within 10 business days of delivery of the notice by hand or 15 business days of the posting of notice by mail. Any suspension of a broker will apply solely to the broker unless the Department of Finance has evidence either that the brokerage company which employed the broker had knowledge of the broker's infractions and did not inform the Department of Finance or that the standard practice of such brokerage company was to commit infractions in its interactions with the Department of Finance regardless of the broker involved. Any suspension of a brokerage company will apply to all brokers employed by the brokerage company for the period during which those brokers remain employed by the brokerage company. Any brokerage company shall be barred from representing clients at PVB in any capacity when a broker subject to a life suspension is employed by, engaged by, is subcontracted to, consults with or has any ownership interest in, such brokerage company.

§ 22. Paragraphs (2), (3), and (4) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(2) *Rules and authorization.* The rules set forth in paragraph (8) of subdivision (b) of this section apply to employees appearing before the Department of Finance in any capacity, which include but are not limited to: the [fleet program, stipulated fine program, commercial abatement program, car rental program] Fleet Program, Stipulated Fine Program, Commercial Abatement Program, Car Rental Program, hearings by mail or through a website maintained or controlled by the Department, CAU hearings, and scheduling and billing.

An employee must register with the Department of Finance before representing a respondent before the Department of Finance in any capacity by submitting an Authorization for Employee to Act as Representative at Special/Commercial Adjudication Hearings, which is[. Such registration must be on an Employee Authorization Form] prescribed by the [City of New York] Department of Finance and receiving approval of such Authorization by the Department of Finance. The [Employee] Authorization [Form] for Employee to Act as Representative at Special/Commercial Adjudication Hearings must be:

(i) [on the letterhead of the registrant;]
[(ii)] signed by a duly authorized principal, officer or partner of the respondent; and
[(iii)] (ii) duly acknowledged before a Notary Public. Such Authorizations must be received by CAU before an employee may act on behalf of [his or her] their company. They will be kept on file at CAU.

(3) *Hearing location and schedule.* All hearings in which employees act as representatives shall be conducted by appointment only in CAU. No other location or unit (e.g. [Help] Business Centers) shall schedule or conduct hearings for respondents represented by employees.

(4) *Fleet [program and car rental program] Program and Car Rental Program.* [All respondents represented by an] An employee [must register] shall not represent a respondent unless such

respondent is registered in the Fleet Program [, if eligible]. For vehicles registered in either the Fleet Program or the Car Rental Program, no hearing will be allowed without a computer-generated log.

§ 23. Paragraph (5) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York, relating to preparation of hearing logs, is REPEALED.

§ 24. Subparagraphs (i), (ii) and (iii) of paragraph (8) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(i) Employees [shall] must observe in good faith the laws and regulations governing the adjudication of parking violation summonses and any forms and instructions provided to the employee by the Department of Finance.

(ii) Employees must exercise due diligence in:

(1) Learning and obeying applicable statutes, rules, and instructions governing the disposition of, or agreements concerning payment of parking violation summonses, in full, before the CAU;

(2) Complying with [schedules for appearances], scheduling and creating ECFs, and submitting evidence for hearings; and

(3) Ensuring that their oral and written arguments [and], statements, and evidence submitted to the Department of Finance are correct.

(iii) An employee who knows or has reason to believe that a respondent has made a factual error in or omission from a document submitted at or prior to the hearing must advise the respondent promptly of such error or omission. An employee [shall] must urge the applicant to correct the error and promptly submit the corrected information.

§ 25. Subparagraphs (viii), (ix) and (x) of paragraph (8) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York are amended to read as follows:

(viii) Employees must not attempt to initiate conversations or correspondence about particular cases with the ALJ before or after the hearing. At the hearing employees must discuss the scheduled matters only. Employees must not telephone [or], write, or otherwise communicate with the ALJ or other employees of the Department of Finance before or after the hearing with additional arguments.

(ix) Employees must not attempt to influence any ALJ or employee of the Department of Finance by the use of threats, false accusations, intimidation or coercion; promises of advantage; or the

presenting or offer of any gift, favor or thing of value. An employee must report promptly any such acts of which the employee is aware to the New York City Department of Investigation.

(x) Employees must not engage in disrespectful conduct [in appearing before] when communicating with an ALJ regarding Parking Violations Bureau business at any time through means including, but not limited to, using abusive language or disrupting a hearing.

§ 26. Subparagraph (xii) of paragraph (8) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(xii) Employees must not request any Department of Finance clerical staff to perform non-routine tasks. All such requests must be addressed directly to and approved by the CAU Manager. "Non-routine" means anything out of the regular processing stream.

§ 27. Paragraph (9) of subdivision (b) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(9) Penalty for violation of these rules. Any employee who willfully or repeatedly violates these rules may be barred from representing [his or her] their employer at PVB in any capacity. The Commissioner may, after providing notice to the employee and an opportunity to be heard, suspend the employee for any period up to life from appearing before the Department of Finance in any capacity, except that the employee may appear on parking violations issued in the employee's name. Such notice will inform the employee of the reasons for the proposed suspension and that the employee has the right to present information as to why the employee should not be suspended to the Commissioner, or [his or her] their designee, within 10 business days of delivery of notice by hand or 15 business days of the posting of notice by mail. Any suspension will apply solely to the employee unless the Department of Finance has evidence either that the standard practice of the employer was to commit infractions in its interactions with the Department of Finance regardless of the employee involved or that the employer had knowledge of the employee's infractions and did not inform the Department of Finance.

§ 28. Paragraph (3) of subdivision (c) of section 39-09 of Title 19 of the Rules of the City of New York is amended to read as follows:

(3) *Authorization for summonses in judgment.* An unpaid representative may not have a hearing on summonses in judgment unless [he or she submits] they submit to the Department of Finance a notarized Request for Hearing After Judgment, signed by the registrant of the summonsed vehicle and duly acknowledged before a Notary Public.

§ 29. Section 39-09 of Title 19 of the Rules of the City of New York is amended by adding a new subdivision (d) to read as follows:

(d) Additional CAU Procedures

(1) In addition to any other procedures set forth in this subchapter, the following procedures shall apply to hearings at which respondents, employees, brokers, unpaid representatives, or any other representatives appear before CAU:

(i) All decisions rendered by ALJs at CAU hearings shall be expressed in the form of a four-digit alpha numeric reason code from a list of four-digit alpha numeric reason codes as determined and maintained by PVB. Each four-digit alpha numeric reason code shall consist of a two-digit alpha numeric prefix constituting the defenses to a summons provided by a respondent and a two-digit alpha numeric suffix constituting the determination rendered by the ALJ. Notwithstanding the foregoing, an ALJ may provide additional information establishing the basis of the ALJ's decision.

(ii) Except as otherwise provided by law, all evidence submitted in any form at CAU hearings will be retained by CAU. CAU is not required to produce copies or certified true copies of any evidence submitted at CAU hearings.

(2) Respondents, Brokers, unpaid representatives, and any other representatives who appear before CAU must consolidate at least the minimum number of summonses authorized by the Director into one ECF for hearing or appeal. Such minimum number of summonses shall be determined by the Director based on the needs of the Bureau, and shall include a consideration of efficiency, workload, staffing and other resources.

(3) For the purpose of this subdivision:

(i) The term "broker" has the meaning set forth in paragraph (1) of subdivision (a) of this section.

(ii) The term "employee" has the meaning set forth in paragraph (1) of subdivision (b) of this section.

(iii) The term "unpaid representative" has the meaning set forth in paragraph (1) of subdivision (c) of this section.

§ 30. Paragraph (2) of subdivision (h) of section 39-10 of Title 19 of the Rules of the City of New York is amended to read as follows:

(2) In the case of judgments rendered after hearing, the respondent [shall] must pay such judgments in full immediately. However, for good cause shown, the Director or [his or her] their designee may extend the time for such payment or set conditions therefor.

§ 31. Paragraphs (1), (2) and (3) of subdivision (j) of section 39-10 of Title 19 of the Rules of the City of New York are amended to read as follows:

(1) A determination dismissing a charged parking violation that has been procured due to the knowing fraud, false testimony, misrepresentation or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or [his or her] their agent, employee or representative may be set aside by an administrative law judge as hereinafter provided.

(2) Notice shall be served on the owner by mail to the last known registered address within two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or [his or her] their agent, employee or representative. Such notice shall fix a time when and place where a hearing shall be held before an administrative law judge to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this subdivision and that a default judgment may be entered thereon.

(3) Upon a finding by an administrative law judge that the dismissal of a charged parking violation has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or [his or her] their agent, employee or representative, the dismissal shall be set aside and a determination may be rendered against the owner on the charged parking violation. The administrative law judge may impose monetary penalties for the charged parking violation of up to three times the scheduled fine for the violation pursuant to 19 RCNY § 39-05 and three times the additional penalties that may be imposed for failure to respond to a notice of violation pursuant to 19 RCNY § 39-07. The administrative law judge shall also impose, without multiplying, the surcharge authorized by section 1809-a of the Vehicle and Traffic Law. For purposes of determining the amount of such additional penalties, the administrative law judge shall disregard the plea that procured the dismissal that has been set aside and shall calculate such penalties as if there had been no plea or appearance in the proceeding. In any proceeding under this subdivision to set aside a determination and to impose penalties for the violation, it shall not be necessary for the administrative law judge to find that the owner personally committed the unlawful acts that procured the dismissal of the violation.

§ 32. Paragraph (5) of subdivision (j) of section 39-10 of Title 19 of the Rules of the City of New York is amended to read as follows:

(5) A default judgment pursuant to paragraph 4 of this subdivision may be entered more than two years after the expiration of the time prescribed pursuant to subdivision (f) of this section, but no more than two years after the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured by fraud, false testimony,

misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation by the respondent or by [his or her] their agent, employee or representative.

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

(1) Appeals shall be heard upon the record of the hearing before the administrative law judge (if provided), the notice of appeal and such briefs as the respondent may file. The Appeals Board may request or accept briefs on behalf of other interested parties or by amici curiae. All appeals shall be submitted to the Appeals Board without oral argument, unless such oral argument is expressly requested by the appellant, or [his or her] their attorney in the notice of appeal, and upon compliance with the rules and regulations of the Bureau. Procedures for oral argument and application therefor, shall be prescribed by the Director.

§ 34. Subdivision (e) of section 39-12 of Title 19 of the Rules of the City of New York is amended to read as follows:

(e) *Determinations.* Within sixty days after the filing of the notice of appeal, respondent's briefs or completion of oral argument, whichever date shall come last, the Appeals Board shall render its determination in writing. A copy of such determination shall be sent by ordinary mail to the respondent or [his or her] their counsel.

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

(1) Failure by any Respondent-Appellant to furnish or supply any relevant material required to process [his or her] their appeal, within thirty days of a request by the Bureau therefor shall be deemed an abandonment of such appeal.

§ 36. Subdivision (d) of section 39-14 of Title 19 of the Rules of the City of New York is amended to read as follows:

(d) *Extensions.* The period of time in which any act required by this chapter is to be performed, may be extended by the Director or [his or her] their designees for good cause, prior to the expiration of the original time period.

**NEW YORK CITY LAW DEPARTMENT
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NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Relating to Adjudication of Parking Violations

REFERENCE NUMBER: 23 RG 033

RULEMAKING AGENCY: 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
Senior Counsel

Date: May 30, 2023

**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 Rules Relating to Adjudication of Parking Violations

REFERENCE NUMBER: DOF-61

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

May 31, 2023
Date