



**NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH**

**Notice of Public Hearing and Opportunity to Comment on
Proposed Amendments to Article 89 of the New York City Health Code**

What are we proposing? The New York City Department of Health and Mental Hygiene (the “Department”) is proposing to amend Article 89 of the New York City Health Code (the “Health Code”) to align with subchapter 2 of Chapter 3 of Title 17 of the Administrative Code, as amended by Local Law 52 of 2024 (the “Local Law”). The Local Law, among other things, amended provisions in such subchapter 2 to eliminate the requirements that: (1) applicants for a mobile food vendor license submit a certificate of authority to collect sales tax and a tax clearance certificate from New York State; (2) applicants for a mobile food vending permit submit such a tax clearance certificate; and (3) applicants seeking to renew a license or permit submit such a tax clearance certificate.

When and where is the hearing? The Department will hold a public hearing on the proposed amendments. The public hearing will take place at 11:00 a.m. to 1:00 p.m. on Wednesday, September 4, 2024. The hearing will be conducted by video conference accessible via internet or telephone.

- **Internet.** To participate in the public hearing, enter to register at this Webex URL: <https://nycdohmh.webex.com/nycdohmh/j.php?MTID=mfcd17866ee2134973b00baba3b454050>
If prompted to provide an event number or password, please enter the following:
Event number: **2331 889 6406**, Password: **Health** (432584 from phones)
- **Phone:** For access, dial: (646) 992-2010 or (408) 418-9388; then please enter the following
Access Code: **233 188 96406**

How do I comment on the proposed amendments? Anyone can comment on the proposed amendments 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
Gotham Center, 42-09 28th Street, 14th Floor, CN 30
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to the Department at (347) 396-6087.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed amendments at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at (347) 396-6078 or (347) 396-6116, or by emailing at resolutioncomments@health.nyc.gov before the hearing begins at 11AM on September 4, 2024. While you will be given the opportunity during the hearing to indicate that you would like to comment, we prefer that you sign-up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit written comments? Written comments must be received on or before 5:00 p.m. on September 4, 2024.

What if I need assistance to participate in the hearing? You must tell the Department's Office of General Counsel if you need a reasonable accommodation of a disability at the hearing, including whether you need a sign language interpreter. You can tell us by e-mail or by mail at the addresses 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 August 21, 2024.

Can I review the comments made regarding the proposed amendments? You may review the online comments made on the proposed amendments at <https://rules.cityofnewyork.us/proposed-rules/>. All written comments and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time after the hearing by the Department's Office of General Counsel.

What authorizes the Department to make this amendment? Sections 556, 558 and 1043 of the City Charter and the Local Law authorize the Department to make this proposed amendment. This rule was not included in the Department's regulatory agenda because the Local Law was not enacted until after the agenda was published.

Where can I find the Department's rules and the Health Code? The Department's New York City Health Code is located in Title 24 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department must meet the requirements of Section 1043 of the City Charter when amending the New York City Health Code. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

On March 29, 2024, the Local Law was enacted to, among other things, amend paragraph 4 of subdivision b of section 17-309, and repeal section 17-310, of the New York City Administrative Code (the "Administrative Code").

Prior to enactment of the Local Law, section 17-309 of the Administrative Code required persons applying for a mobile food vending permit or license to submit with their application a certificate of authority to collect sales taxes and a tax clearance certificate from the NYS Tax Commission. As a result of the Local Law, applicants for a mobile food vendor license are no longer required to submit such certificates. Applicants for a mobile food vending permit are also no longer required to submit a tax clearance certificate, but continue to be required to submit a certificate of authority to collect sales tax.

Additionally, prior to enactment of the Local Law, section 17-310 of the Administrative Code required persons seeking renewal of a mobile food vending license or permit to submit tax

clearance certificates from the NYS Tax Commission and the NYC Department of Finance. These requirements are removed as a result of the Local Law.

The purpose of the proposed amendments is to align section 89.11 of the Health Code with applicable provisions of the Administrative Code, as amended by the Local Law. When implemented, the proposed amendments will ease the documentation burden to apply for a mobile food vendor license or permit.

New material is underlined. [Material to be removed is bracketed.]

The proposal is as follows:

RESOLVED, that subdivisions b and c of section 89.11 of Article 89 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, are amended to read as follows:

(b) *Applications*. All applications shall be submitted in a form and contain all information and documentation required by the Department, and shall include, but not be limited to, the following information:

- (1) The name, home and business address of the applicant;
- (2) The name, home address and license number of every food vendor who will be authorized by the permittee to operate the mobile food vending unit;
- (3) A description of the food to be vended and a description of the type of mobile food vending unit to be operated pursuant to the permit;
- (4) At least one piece of current valid photo identification issued by a government agency of any jurisdiction;
- (5) [Proof] If the application is for a mobile food vending permit, proof that the applicant has obtained a certificate of authority to collect sales taxes pursuant to § 1134 of the Tax Law[, and has a tax clearance certificate] from the [State Tax Commission] New York State Department of Taxation and Finance;
- (6) If the applicant is a partnership, limited liability company or other business entity, the name, and address of each partner, member, officer or manager, as may be applicable, of such entity; if a corporation, the names and addresses of the corporation, the names, home and business addresses of the principal stockholders, officers, directors and shareholders;
- (7) Proof that the applicant has obtained clearance from the Environmental Control Board showing the payment of all penalties and fines pursuant to 24 RCNY Chapter 6; and
- (8) An application for a permit for a mobile food vending unit to operate in a private or restricted space shall include a copy of a written agreement with the owner of the private or restricted space indicating that the applicant has the right to operate in such space.

(c) *Renewals*. An application for renewal of a license or permit shall be received by the Department, with the fee required by 24 RCNY Health Code Article 5 or the Administrative Code, at least thirty days prior to the expiration date of the existing license or permit. Such application shall be accompanied by [tax clearance certificates issued by the State Tax Commission and New York City Department of Finance, and] proof that all penalties and fines for sustained or defaulted notices of violation issued to the mobile food vendor licensee or permittee for violations of Title 17 of the Administrative Code, the Health Code, the Sanitary Code, and 24 RCNY Chapter 6 have been paid in full in accordance with such chapter.

**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 Rules Relating to Applicants and Renewal Applications for Mobile Food Vending Licenses or Permits

REFERENCE NUMBER: 2024 RG 060

RULEMAKING AGENCY: Department of Health and Mental Hygiene

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: June 17, 2024

**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 Applicants and Renewal Applications for
Mobile Food Vending Licenses or Permits**

REFERENCE NUMBER: DOHMH-145

RULEMAKING AGENCY: Department of Health and Mental Hygiene

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

June 18, 2024
Date