



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

Notice of Adoption of Amendments to Title 24 of the Rules of the City of New York

A notice of public hearing and opportunity to comment on a proposal by the NYC Department of Health and Mental Hygiene (“Department”) to create a new Chapter 37 in Title 24 of the Rules of the City of New York was published in the City Record on January 19, 2024. A virtual public hearing was held on February 22, 2024. No one testified at the hearing and no written comments were received on the proposal. The Department has not made any substantive changes to the proposed rule and now adopts the rule as provided below.

Statement of Basis and Purpose of Proposed Rule

In accordance with Charter § 1043(g), any person may petition an agency to consider the adoption of any rule and each agency is to prescribe by rule the procedure for submission, consideration and disposition of such petitions. Chapter 37 provides procedures for how the public may petition the Department to amend, adopt or delete a rule promulgated by this Department.

Statutory Authority

These rules are promulgated pursuant to Charter §1043(g).

The adopted rules are as follows.
New material is underlined.

RESOLVED, that Title 24 of the Rules of the City of New York is amended by adding a new Chapter 37 to read as follows:

Chapter 37
Petitioning the Department to Commence Rulemaking

§ 37.01 Definitions.

- (a) Department means the New York City Department of Health and Mental Hygiene.
- (b) Petition means a request or application by a member of the public for the Department to create, amend or repeal a rule promulgated by the Department.
- (c) Petitioner means the person who submits a petition.
- (d) Rule shall have the meaning set forth in § 1041(5) of the New York City Charter (“Charter”) and, for the purposes of this Chapter, means only those provisions of law contained in, or to be contained in, Title 24 of the Rules of the City of New York with numerical Chapter headings and also known as Commissioner of Health Regulations (“Commissioner Regulations”). For the purposes of this Chapter, rule does not include any provision of the New York City Health Code.

§ 37.03 Scope.

This Chapter governs the procedures by which the public may petition the Department to commence rulemaking of Commissioner Regulations pursuant to § 1043(g) of the Charter.

§ 37.05 Procedures for Submitting Petitions; Responses to Petitions.

- (a) Any person may petition the Department to consider the adoption, amendment or repeal of a rule. The petition must be in writing and must contain the following information:
 - (1) The rule to be considered, including proposed language for adoption;
 - (2) A statement as to the purpose of the rule, amendment or repeal and the Department's authority to promulgate the rule;
 - (3) Petitioner's argument(s) in support of adoption of the rule, amendment or repeal.
 - (4) The period of time the rule should be in effect, if applicable;
 - (5) Whether the person submitting the petition represents another individual or an organization;
 - (6) The name, address and telephone number of the petitioner or his or her authorized representative;
 - (7) The signature of petitioner or their representative.
- (b) Illegible petitions will not be accepted.
- (c) All petitions must be delivered to the office of the Secretary to the Department by mail, courier, facsimile, electronic mail or online.
- (d) The petitioner must promptly communicate any changes in the information required by this section in writing to the office of the Secretary to the Department.
- (e) Upon receipt of a petition submitted in the proper form, the Secretary to the Department will stamp the petition with the date it was received and assign the petition a number and a date-stamped receipt with the petition number shall be sent to the petitioner. The Secretary will forward the petition to the Commissioner and appropriate staff of the Department for their review.
- (f) Within sixty (60) days from the date the petition is properly received by the Secretary to the Department, the Commissioner will either deny such petition in a written statement to the petitioner containing the reasons for denial, or state in writing to the petitioner the intention to grant the petition and to initiate rulemaking on the subject matter by a specified date. In all cases where the Commissioner has granted a petition to initiate rulemaking, the Department is not bound by any specific language proposed by the petitioner.
- (g) The Commissioner's decision to grant or deny a petition will be a final decision which is not subject to judicial review pursuant to § 1043(g) of the Charter.