

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Taxi and Limousine Commission is considering changing its rules. The changes would change the procedures for consideration of license applications, and specify grounds for denial of drivers' license applications.

When and where is the Hearing? The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Thursday, June 16, 2011. The hearing will be in the Commission hearing room at 33 Beaver Street, New York, New York, on the 19th Floor.

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

- **Mail.** You can mail written comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street - 22nd Floor, New York, New York 10004.
- **Fax.** You can fax written comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email written comments to tlcrules@tlc.nyc.gov.
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC Rules Web site at www.nyc.gov/nycrules.
- **By Speaking At the 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 212-676-1135. You can also sign up in the hearing room before the hearing begins on June 16, 2011 at 10:00 a.m. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by June 13, 2011.

Do you 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 212-676-1135. You must tell us by Thursday, June 9, 2011.

Can I review the comments made on the proposed rules? A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs at 33 Beaver Street, 22nd Floor, New York, NY.

What authorizes the Commission to make this rule? Sections 1043 and 2303 of the City Charter and section 19-503 of the City Administrative Code authorize the Commission to make

this proposed rule. This proposed rule was not included in the Commission’s regulatory agenda for this Fiscal Year because the need for this rule was not anticipated at that time.

Where can I find the Commission’s rules? The Commission’s rules are in title 35 of the Rules of the City of New York.

What rules govern the rulemaking process? The Commission must meet the requirements of Section 1043 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 of Proposed Rules

These proposed rules make five changes to the Taxi and Limousine Commission’s license application process and two additional changes.

First, these proposed rules replace costly and time-consuming license applicant “fitness hearings” with a more flexible information-gathering process. Under the current rules, when applicants do not fully demonstrate that they are fit to hold the license for which they are applying, the TLC may refer them for a fitness hearing before an Administrative Law Judge (ALJ) where they provide additional information. These applicant fitness hearings have not been formal adversarial hearings, but have been informal proceedings more closely resembling interviews than trials.

Under these proposed rules, when an application leaves questions about the applicant’s fitness to hold the license, instead of being referred to a fitness hearing, TLC licensing staff will ask the applicant for more information. In contrast with the current in-person fitness hearing, TLC staff will request the information however is most appropriate for the specific application – such as by letter, e-mail, telephone call, or personal interview. The TLC expects this flexible information-gathering process to take less time than fitness hearings, which will benefit both the TLC and applicants.

Second, these proposed rules will provide specific standards and clearly identify the reasons for which an application will be rejected. In reviewing prior fitness decisions the TLC identified applicant conduct that makes it highly likely that an application will be rejected. Such conduct indicates an applicant poses an unreasonable risk to safety and welfare of the public, or otherwise demonstrates that the applicant is not fit to hold a TLC license. The TLC will reject applications that indicate the following forms of conduct within certain prescribed time periods:

- dishonesty;
- a poor driving record, including the use of alcohol or drugs while operating a motor vehicle;

- use of illegal drugs;
- failure to comply with TLC rules, as demonstrated by license revocation;
- acts of actual, threatened or potential violence, including possession of weapons; and,
- unlicensed driving, including driving without a required state license and driving for hire without a required TLC license.

These proposed rules establish one-, two-, and three-year application bans depending on the conduct. For example, a driver license application will not be accepted for three years after the revocation of a TLC license previously held by the applicant. The TLC will reject or deny applications that are submitted within these ban periods.

These proposed rules will enable a potential applicant to avoid the time and expense of preparing and submitting an application that will be denied. Where an applicant is not fit for licensure under these rules, the TLC staff will wherever possible reject the application upon submission and no license fees will be accepted. In contrast, under the current rules, the TLC must accept an application no matter how unlikely it is to be granted. Where TLC staff does not determine at submission that an application should be rejected, and accepts the application, license fees are non-refundable.

These proposed rules make three other changes to the license application process:

- They codify long-standing practice that an applicant bears the burden of proving fitness for licensure,
- They clarify which drugs the TLC tests for, and
- They eliminate a number of minor inconsistencies among the four driver license types.

Finally, these proposed rules make two other changes:

- They clarify that final decisions issued by the Chairperson are precedent for deciding later cases that involve similar facts or issues, and
- They require drivers to surrender their licenses within 30 days of license revocation and establish a \$1,000 fine for drivers who fail to comply.

Any application where a fitness hearing is conducted before July 1, 2011 will be decided under the old process. After July 1, 2011, any pending application where a fitness hearing has not been conducted will be decided under the new process as outlined in these proposed rules.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. It is hereby proposed that the definition of “Fit to Hold a License” in section 51-1 of Title 35 of the Rules of the City of New York be amended, and a new definition of “Drugs” be added, to read as follows:

Drugs mean any drug or other substance defined as a controlled substance in §3306 of the Public Health Law.

Fit to Hold a License means that [the Applicant or Licensee is qualified (“fit”) to assume the duties and obligations of the particular TLC Licensee and meets and will continue to meet the qualifications for licensure established by applicable Rule or law, and that a Licensee or Applicant for a License will comply and continue to meet such qualifications and comply with such applicable Rule or law.]

- The Applicant or Licensee meets and will continue to meet all of the qualifications for the License sought or held as established by applicable Rules and laws.
- The Applicant or Licensee is of good moral character.
- The Applicant or Licensee has been and will be candid and forthcoming with the Commission and honest in dealing with the public.
- The Applicant or Licensee has reliably complied with and will reliably comply with all of the rules and laws associated with holding the particular TLC License.
- Where an Applicant has engaged in conduct that resulted or could have resulted in the suspension or revocation of a TLC License, the Applicant shows that he or she will not engage in similar conduct in the future.

Section 2. It is hereby proposed that paragraphs (2) through (17) of subdivision (c) of section 54-03 of Title 35 of the Rules of the City of New York be renumbered paragraphs (3) through (18) and a new paragraph (2) be added, to read as follows:

- (2) Application in this chapter refers to an application for a Taxicab Driver’s License, including all documentation and other information submitted as part of the application.

Section 3. It is hereby proposed that subdivision (h) of section 54-04 of Title 35 of the Rules of the City of New York be amended, that subdivision (q) be amended by adding a new paragraph (2), and that a new subdivision (r) be added, to read as follows:

(h) *Pass Drug Test.*

- (1) All Applicants for new Taxicab Driver’s Licenses, except New York City Police Officers, must be tested, at the Applicant’s expense, for [d]Drugs [or controlled substances].

- (2) The Commission designates who can perform the drug test and will only designate an individual or entity that has a permit issued by the New York State Department of Health.
- (3) If an Applicant tests positive for [d]Drugs [or controlled substances], the Commission will deny the Applicant's license. This decision is final.

...

(q) ...

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to the Applicant's failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

(r) Material Changes in the Application. The Applicant must inform the Chairperson of any material change in the information submitted as part of the Application while the Application is pending. Material changes include, but are not limited to:

(1) Changes in Applicant's Chauffeur's License status;

(2) Mailing address;

(3) Additional criminal convictions;

(4) Additional DMV convictions, including convictions for the offense of operating a motor vehicle while impaired by alcohol or drugs; or

(5) Any change to the information provided or submitted with the Application.

Section 4. It is hereby proposed that section 54-08 of Title 35 of the Rules of the City of New York be amended to read as follows:

§54-08 Licensing – Process and Causes for Denial

- (a) [Failure to Meet Requirements]Fit to Hold a License - Applicant. The [Commission] Chairperson will deny the original or renewal License of any Applicant who fails to [meet the requirements] demonstrate that the Applicant is Fit to Hold a License. The [Commission] Chairperson will inform the Applicant, in writing, of the specific reason(s) for this denial. The decision to deny a license Application is in the discretion of the Chairperson.
- (b) [Failure to Continue to Meet Requirements]Fit to Hold a License - Licensee. If at any time the [Commission] Chairperson [becomes aware] is notified that a Driver no longer

meets the requirements for licensure, the [Commission] Chairperson can deny Driver's renewal application or may seek to suspend or revoke his or her License.

- (c) *[Bribery.* The Commission can deny an application for a new or renewal License if the Applicant directly or indirectly offers or gives any gift, gratuity or thing of value to an employee, representative or member of the Commission or any public servant. Applicants must immediately report to the Commission any direct or indirect request for a gift, gratuity or thing of value from any public servant.]

Denial of an Application. The Chairperson can reject or deny a new Application for a License for the reasons specified in this section. If, at the time of submission of an Application by the Applicant, the Chairperson identifies that the Applicant meets the criteria in this section, the Chairperson will reject the Application and no Application fees will be accepted. If the Application is accepted by the Chairperson for processing, no Application fees will be refunded.

- (1) Three-Year Ban. The Chairperson can deny an Application if, during the previous three years, the Applicant has committed:

- (i) Any act, as prohibited by these Rules, of driving a TLC licensed vehicle while impaired by intoxicating liquor (regardless of its alcoholic content) or Drugs.
- (ii) Illegal use of Drugs, as determined by the Commission following a drug test required by the Commission. This includes where the drug test result was unchallenged or unsuccessfully challenged. The three-year ban will run from the date of the failed drug test.
- (iii) Any act, as prohibited by these Rules, of bribery, fraud, misrepresentation, theft, threat against a person, harassment, abuse, or use of physical force.
- (iv) Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules.
- (v) Revocation of a prior License.

1. Revocation. If a prior License was revoked, the three-year ban will run from the date of the revocation.

2. Surrender While License Revocation Charges were Pending. If a prior License was surrendered to the Chairperson before the expiration date of the License, the three-year ban will run from the date the License is surrendered.

3. License Expiration While License Revocation Charges were Pending. If a prior License expired while license revocation charges were pending, the three-year ban will run from the date the License expired.
- (2) Two-Year Ban. The Chairperson can deny an Application if, during the previous two years, the Applicant has committed:
- (i) Any act constituting for-hire operation of a motor vehicle without a valid TLC License, except for the traffic infraction of unlicensed operation.
 - (ii) Six or more violations of these Rules while holding any License or Licenses issued by the Commission. The two-year ban will be counted from the date of the last violation.
- (3) One-Year Ban. The Chairperson can deny an Application if, during the previous one year, the Applicant has committed:
- (i) More than three traffic accidents within a single year. The one-year ban will be counted from the date of the last accident.
 - (ii) The traffic infraction of unlicensed operation of a motor vehicle,
 - (iii) Prior Application Denied. The Chairperson will deny an Application that is submitted within one year after the denial of a previous Application, if the previous Application was denied because the Applicant was found not Fit to Hold a License. The one-year ban will be counted from the date the prior application was denied.
- (4) Other Reasons for Denial of an Application.
- (i) Mistake or Omission in the Application. The Chairperson can deny an Application if the Application includes any material mistake or omission, or if the Applicant fails to inform the Chairperson of any material change in the Application.
 - (ii) Eligible for Critical Driver Penalty. The Chairperson can deny an Application if the Applicant would, if licensed, be subject to License suspension or revocation under the Critical Driver Program at the time the Application is submitted.
 - (iii) Pendency of Criminal Charges. The Chairperson will defer consideration of an Application if the Applicant has criminal charges pending. If the

charges are not resolved within 90 days after the submission of the Application, the Application will be denied.

(d) *[Material Misrepresentation or Falsification.* The Commission can deny a Driver’s License application and can suspend or revoke a renewal application if the Applicant provides any material misrepresentation in the application, or if the Applicant fails to inform the Commission of any material change in the application. The Commission may also impose other sanctions.]

[(e)] *Failure to Complete Application Requirements.*

(1) The [Commission] Chairperson will deny an [a]Application for a new License if the Applicant has not completed all of the requirements of an [a]Application within 90 days of the date the [a]Application is filed.

(2) The [Commission] Chairperson will deny an [a]Application for a renewal License if the Applicant has not completed all of the requirements of an [a]Application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an [a]Application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(e) Additional Consideration of an Application. If a review of the Application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the Application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 5. It is hereby proposed that section 54-10 of Title 35 of the Rules of the City of New York be amended by adding a new subdivision (f), to read as follows:

§54-10 Licensing – Care and Use of License

...

(f) Surrender of License. A Driver must surrender his or her License to the Commission immediately upon revocation of the License. The License must be surrendered within thirty days of the date of revocation.

§54-10 (f)	Fine: \$1,000 to be paid if Driver applies for a new License of any type.	Appearance N/A
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Section 6. It is hereby proposed that subdivisions (b) and (c) of section 54-14 of Title 35 of the Rules of the City of New York be amended to read as follows:

(b) *Driving While Impaired.*

- (1) A Driver must not operate a Taxicab while his or her driving ability is impaired by intoxicating liquor (regardless of its alcoholic content)[.] or [d]Drugs [or other controlled substances].
- (2) A Driver must not drive or occupy his or her Taxicab for at least six hours after consuming any intoxicating liquor regardless of its alcoholic content, or any [d]Drugs [or other controlled substances].

...

(c) *Drug Testing.*

- (1) *Drug Testing for Cause.* If the Commission has a reasonable suspicion that a Driver has used a [d]Drug [or controlled substance] that makes him or her unfit to operate a Taxicab safely, the Commission can direct the Driver to be tested, at the Driver’s expense, by a Commission-approved person, licensed by the NYS Department of Health, and the Driver must comply.

...

(2) *Annual Drug Testing.*

- (i) All Drivers except Drivers who are City of New York Police Officers must be tested annually, at the Driver’s expense, for [d]Drugs [or controlled substances] in order to retain Valid Licenses.

...

Section 7. It is hereby proposed that subdivisions (b) through (t) of section 55-03 of Title 35 of the Rules of the City of New York be relettered subdivisions (c) through (u) and that a new subdivision (b) be added, to read as follows:

- (b) Application in this chapter refers to an application for a For-Hire Driver's License including all documentation and other information submitted as part of the application.

Section 8. It is hereby proposed that subdivision (g) of section 55-04 of Title 35 of the Rules of the City of New York be amended, that subdivision (k) be amended by adding a new paragraph (2), and that a new subdivision (m) be added, to read as follows:

- (g) *Pass Drug Test.*

- (1) All Applicants for new For-Hire Driver's License, except New York City Police Officers, must be tested, at the Applicant's expense, for [d]Drugs[or controlled substances].
- (2) The Commission designates who can perform the drug test and will only designate an individual or entity that has a permit issued by the New York State Department of Health.
- (3) If an Applicant tests positive for [d]Drugs [or controlled substances], the Commission will deny the Applicant's license. This decision is final.

- (k) . . .

- (2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

- (m) Material Changes in the Application. The Applicant must inform the Chairperson of any material change in the information submitted as part of the Application while the Application is pending. Material changes include, but are not limited to:

- (1) Changes in Applicant's Chauffeur's License status;
- (2) Mailing address;
- (3) Additional criminal convictions;
- (4) Additional DMV convictions, including convictions for the offense of operating a motor vehicle while impaired by alcohol or drugs; or
- (5) Any change to the information provided or submitted with the Application.

Section 9. It is hereby proposed that section 55-08 of Title 35 of the Rules of the City of New York be amended to read as follows:

§55-08 Licensing – Process and Causes for Denial of License

- (a) *[Reserved. Failure to Meet any of Above Requirements.]*
Fit to Hold a License - Applicant. The Chairperson will deny the original or renewal License of any Applicant who fails to demonstrate that the Applicant is Fit to Hold a License. The Chairperson will inform the Applicant, in writing, of the specific reason(s) for this denial. The decision to deny a license Application is in the discretion of the Chairperson.
- (b) *[Material Misrepresentation or Falsification.*
- (1) The Commission can deny an application for a License or renewal of a License if it finds that an Applicant has lied or made a material misrepresentation on the application.
- (2) The Commission can also, after notice and hearing, revoke or suspend any License it has issued if it finds that an Applicant has lied or made a material misrepresentation on his or her application.]
- Fit to Hold a License - Licensee. If at any time the Chairperson is notified that a Driver no longer meets the requirements for licensure, the Chairperson can deny Driver's renewal application or may seek to suspend or revoke his or her License.
- (c) Denial of an Application. The Chairperson can reject or deny a new Application for a License for the reasons specified in this section. If, at the time of submission of an Application by the Applicant, the Chairperson identifies that the Applicant meets the criteria in this section, the Chairperson will reject the Application and no Application fees will be accepted. If the Application is accepted by the Chairperson, no Application fees will be refunded.
- (1) Three-Year Ban. The Chairperson can deny an Application if, during the previous three years, the Applicant has committed:
- (i) Any act, as prohibited by these Rules, of driving a TLC licensed vehicle while impaired by intoxicating liquor (regardless of its alcoholic content), or Drugs.
- (ii) Illegal use of Drugs, as determined by the Commission following a drug test required by the Commission. This includes where the drug test result

was unchallenged or unsuccessfully challenged. The three-year ban will run from the date of the failed drug test.

(iii) Any act, as prohibited by these Rules, of bribery, fraud, misrepresentation, theft, threat against a person, harassment, abuse, or use of physical force.

(iv) Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules.

(v) *Revocation of a prior License.*

1. *Revocation.* If a prior License was revoked, the three-year ban will run from the date of the revocation.

2. *Surrender While License Revocation Charges were Pending.* If a prior License was surrendered to the Chairperson before the expiration date of the License, the three-year ban will run from the date the License is surrendered.

3. *License Expiration While License Revocation Charges were Pending.* If a prior License expired while license revocation charges were pending, the three-year ban will run from the date the License expired.

(2) *Two-Year Ban.* The Chairperson can deny an Application if, during the previous two years, the Applicant has committed:

(i) Any act constituting for-hire operation of a motor vehicle without a valid TLC License, except for the traffic infraction of unlicensed operation .

(ii) Six or more violations of these Rules while holding any License or Licenses issued by the Commission. The two-year ban will be counted from the date of the last violation.

(3) *One-Year Ban.* The Chairperson can deny an Application if, during the previous one year, the Applicant has committed:

(i) More than three traffic accidents within a single year. The one-year ban will be counted from the date of the last accident.

(ii) The traffic infraction of unlicensed operation of a motor vehicle,

(iii) *Prior Application Denied.* The Chairperson will deny an Application that is submitted within one year after the denial of a previous Application, if

the previous Application was denied because the Applicant was found not Fit to Hold a License. The one year ban will be counted from the date the prior application was denied

(4) Other Reasons for Denial of an Application.

(i) Mistake or Omission in the Application. The Chairperson can deny an Application if the Application includes any material mistake or omission, or if the Applicant fails to inform the Chairperson of any material change in the Application.

(ii) Eligible for Critical Driver Penalty. The Chairperson can deny an Application if the Applicant would if licensed be subject to License suspension or revocation under the Critical Driver Program at the time the Application is submitted.

(iii) Pendency of Criminal Charges. The Chairperson will defer consideration of an Application if the Applicant has criminal charges pending. If the charges are not resolved within 90 days after the submission of the Application, the Application will be denied.

(d) Failure to Complete Application Requirements.

(1) The [Commission] Chairperson will deny an [a]Application for a new License if the Applicant has not completed all the requirements of an application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an [a]Application for a renewal License if the Applicant has not completed all the requirements of an [a]Application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an [a]Application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(e) Additional Consideration of an Application. If a review of the Application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of

the Application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 10. It is hereby proposed that section 55-10 of Title 35 of the Rules of the City of New York be amended by adding a new subdivision (e), to read as follows:

§55-10 Licensing – Care and Use of License

...

(e) Surrender of License. A Driver must surrender his or her License to the Commission immediately upon revocation of the License. The License must be surrendered within thirty days of the date of revocation.

<u>§55-10 (e)</u>	<u>Fine: \$1,000 to be paid if Driver applies for a new License of any type.</u>	<u>Appearance N/A</u>
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Section 11. It is hereby proposed that a subdivisions (b),(c), and (d) of section 55-10 of Title 35 of the Rules of the City of New York be amended to read as follows:

(b) *Driving While Impaired.*

(1) A Driver must not operate a For-Hire Vehicle while his or her driving ability is impaired by intoxicating liquor (regardless of its alcoholic content)[,] or [d]Drugs [or other controlled substances].

(2) A Driver must not drive or occupy his or her For-Hire Vehicle for at least six hours after consuming any intoxicating liquor regardless of its alcoholic content, or consuming any [d]Drugs [or other controlled substances].

...

(c) *Drug Testing “For Cause.”* If the Commission has a reasonable suspicion that a Driver has used a [d]Drug [or controlled substance] that makes him or her unfit to operate a For-Hire Vehicle safely, the Commission can direct the Driver to be tested, at the Driver’s expense, by a Commission-approved person, licensed by the NYS Department of Health, and the Driver must comply.

...

(d) *Annual Drug Testing.*

- (1) All Drivers except those who are NYC Police Officers, must be tested annually, at the Driver's expense, for [d]Drugs [or controlled substances].

...

Section 12. It is hereby proposed that subdivisions (b) through (h) of section 56-03 of Title 35 of the Rules of the City of New York be relettered subdivisions (c) through (i) and that a new subdivision (b) be added, to read as follows:

- (b) Application in this chapter refers to an application for a Paratransit Driver's License including all documentation and other information submitted as part of the application.

Section 13. It is hereby proposed that subdivision (n) of section 56-04 of Title 35 of the Rules of the City of New York be amended by adding a new paragraph (2) and that a new subdivision (o) be added, to read as follows:

(n) ...

- (2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

(o) Material Changes in the Application. The Applicant must inform the Chairperson of any material change in the information submitted as part of the Application while the Application is pending. Material changes include, but are not limited to:

(1) Changes in Applicant's Chauffeur's License status;

(2) Mailing address; additional criminal convictions;

(3) Additional DMV convictions, including convictions for the offense of operating a motor vehicle while impaired by alcohol or drugs; or

(4) Any change to the information provided or submitted with the Application.

Section 14. It is hereby proposed that section 56-08 of Title 35 of the Rules of the City of New York be amended to read as follows:

§56-08 Licensing – Process and Cause for Denial of License

(a) *[Failure to Meet Any of Above Requirements] Fit to Hold a License - Applicant.* The [Commission] Chairperson will deny the original Paratransit License or renewal License of any Applicant who fails to [meet the requirements] demonstrate that the Applicant is Fit to Hold a License. The [Commission] Chairperson will inform the Applicant, in writing, of the specific reason(s) for this denial. The decision to deny a license Application is in the discretion of the Chairperson.

(b) *[Material Misrepresentation or Falsification.*

The Commission will deny a Driver's License application, including a renewal application, and can suspend or revoke an existing License if the Applicant fails to notify the Commission of any material change in the information contained in the application. The Commission can impose other sanctions as well.

The Commission will deny a Driver's License application and can suspend or revoke an existing License if the Applicant lies or misrepresents any information in the application. The Commission can impose other sanctions as well.]

Fit to Hold a License - Licensee. If at any time the Chairperson is notified that a Driver no longer meets the requirements for licensure, the Chairperson can deny Driver's renewal application or may seek to suspend or revoke his or her License.

(c) *[Evidence of Attempt to Bribe.*

An Applicant (or someone acting on behalf of the Applicant) must not offer or give any gift or gratuity to any employee, representative, public servant, or member of the Commission.

An Applicant must immediately report to the Chairperson if any employee, representative, public servant, or member of the Commission makes a request or demand for any gift or gratuity.]

Denial of an Application. The Chairperson can reject or deny a new Application for a License for the reasons specified in this section. If, at the time of submission of an Application by the Applicant, the Chairperson identifies that the Applicant meets the criteria in this section, the Chairperson will reject the Application and no Application fees will be accepted. If the Application is accepted by the Chairperson, no Application fees will be refunded.

(1) Three-Year Ban. The Chairperson can deny an Application if, during the previous three years, the Applicant has committed:

- (i) Any act, as prohibited by these Rules, of driving a TLC licensed vehicle while impaired by intoxicating liquor (regardless of its alcoholic content), or Drugs.
 - (ii) Illegal use of Drugs, as determined by the Commission following a drug test required by the Commission. This includes where the drug test result was unchallenged or unsuccessfully challenged. The three-year ban will run from the date of the failed drug test.
 - (iii) Any act, as prohibited by these Rules, of bribery, fraud, misrepresentation, theft, threat against a person, harassment, abuse, or use of physical force.
 - (iv) Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules.
 - (v) Revocation of a prior License.
 - 1. Revocation. If a prior License was revoked, the three-year ban will run from the date of the revocation.
 - 2. Surrender While License Revocation Charges were Pending. If a prior License was surrendered to the Chairperson before the expiration date of the License, the three-year ban will run from the date the License is surrendered.
 - 3. License Expiration While License Revocation Charges were Pending. If a prior License expired while license revocation charges were pending, the three-year ban will run from the date the License expired.
- (2) Two-Year Ban. The Chairperson can deny an Application if, during the previous two years, the Applicant has committed:
- (i) Any act constituting for-hire operation of a motor vehicle without a valid TLC License, except for the traffic infraction of unlicensed operation .
 - (ii) Six or more violations of these Rules while holding any License or Licenses issued by the Commission. The two-year ban will be counted from the date of the last violation.
- (3) One-Year Ban. The Chairperson can deny an Application if, during the previous one year, the Applicant has committed:

- (i) More than three traffic accidents within a single year. The one-year ban will be counted from the date of the last accident.
- (ii) The traffic infraction of unlicensed operation of a motor vehicle.
- (iii) Prior Application Denied. The Chairperson will deny an Application that is submitted within one year after the denial of a previous Application, if the previous Application was denied because the Applicant was found not Fit to Hold a License. The one year ban will be counted from the date the prior application was denied

(4) Other Reasons for Denial of an Application.

- (i) Mistake or Omission in the Application. The Chairperson can deny an Application if the Application includes any material mistake or omission, or if the Applicant fails to inform the Chairperson of any material change in the Application.
- (ii) Eligible for Critical Driver Penalty. The Chairperson can deny an Application if the Applicant would, if licensed, be subject to License suspension or revocation under the Critical Driver Program at the time the Application is submitted.
- (iii) Pendency of Criminal Charges. The Chairperson will defer consideration of an Application if the Applicant has criminal charges pending. If the charges are not resolved within 90 days after the submission of the Application, the Application will be denied.

(d) Failure to Complete Application Requirements.

(1) The [Commission] Chairperson will deny an [a]Application for a new License if the Applicant has not completed all the requirements of an [a]Application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an [a]Application for a renewal License if the Applicant has not completed all the requirements of an [a]Application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an [a]Application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(e) *[No Longer Meets Requirements.* The Commission can deny, suspend or revoke the License of any renewal Applicant who no longer meets the requirements for a Paratransit Driver’s License.]

Additional Consideration of an Application. If a review of the Application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the Application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 15. It is hereby proposed that section 56-10 of Title 35 of the Rules of the City of New York be amended by adding a new subdivision (g), to read as follows:

§56-10 Licensing – Care of License

...

(g) Surrender of License. A Driver must surrender his or her License to the Commission immediately upon revocation of the License. The License must be surrendered within thirty days of the date of revocation.

§56-10 (g)	Fine: \$1,000 to be paid if Driver applies for a new License of any type.	Appearance N/A
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Section 16. It is hereby proposed that paragraph (d) of section 56-14 of Title 35 of the Rules of the City of New York be amended to read as follows:

(d) *Driving While Impaired.* A Driver must not operate a Paratransit Vehicle if his or her driving ability is impaired by either alcohol or [d]Drugs. A Driver must not consume alcoholic beverages or [illegal drugs]Drugs while occupying the vehicle.

Section 17. It is hereby proposed that subdivisions (b) through (i) of section 57-03 of Title 35 of the Rules of the City of New York be relettered subdivisions(c) through (j) and that a new subdivision (b) be added, to read as follows:

(b) Application in this chapter refers to an application for a Commuter Van Driver’s License including all documentation and other information submitted as part of the application.

Section 18. It is hereby proposed that subdivision (1) of section 57-04 of Title 35 of the Rules of the City of New York be amended by adding new paragraph (2) and that a new subdivision (o) be added, to read as follows:

- (1) . . .
- (2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.
- (o) Material Changes in the Application. The Applicant must inform the Chairperson of any material change in the information submitted as part of the Application while the Application is pending. Material changes include, but are not limited to:
 - (1) Changes in Applicant’s Chauffeur’s License status;
 - (2) Mailing address;
 - (3) Additional criminal convictions;
 - (4) Additional DMV convictions, including convictions for the offense of operating a motor vehicle while impaired by alcohol or drugs; or
 - (5) Any change to the information provided or submitted with the Application.

Section 19. It is hereby proposed that section 57-08 of Title 35 of the Rules of the City of New York be amended to read as follows:

§57-08 Licensing – Procedures and Causes for Denial

- (a) [Reserved. Failure to Meet Requirements.] Fit to Hold a License - Applicant. The Chairperson will deny the original or renewal License of any Applicant who fails to demonstrate that they are Fit to Hold a License. The Chairperson will inform the Applicant, in writing, of the specific reason(s) for this denial. The decision to deny a license Application is in the discretion of the Chairperson.
- (b) [Revocation within the Last Year. The Commission will not issue or renew a Commuter Van Driver’s License if the Applicant has had a Commuter Van Driver’s License revoked within the last year.] Fit to Hold a License - Licensee. If at any time the Chairperson is notified that a Driver no longer meets the requirements for licensure, the Chairperson can deny Driver’s renewal application or may seek to suspend or revoke his or her License.
- (c) [Material Misrepresentation or Falsification. The Commission can deny an application or refuse a renewal if the Applicant has lied or withheld any material information or

made or concealed a material fact in connection with his or her application or any certification related to the application.]

Denial of an Application. The Chairperson can reject or deny a new Application for a License for the reasons specified in this section. If, at the time of submission of an Application by the Applicant, the Chairperson identifies that the Applicant meets the criteria in this section, the Chairperson will reject the Application and no Application fees will be accepted. If the Application is accepted by the Chairperson, no Application fees will be refunded.

- (1) Three-Year Ban. The Chairperson can deny an Application if, during the previous three years, the Applicant has committed:
 - (i) Any act, as prohibited by these Rules, of driving a TLC licensed vehicle while impaired by intoxicating liquor (regardless of its alcoholic content), or Drugs.
 - (ii) Illegal use of Drugs, as determined by the Commission following a drug test required by the Commission. This includes where the drug test result was unchallenged or unsuccessfully challenged. The three-year ban will run from the date of the failed drug test.
 - (iii) Any act, as prohibited by these Rules, of bribery, fraud, misrepresentation, theft, threat against a person, harassment, abuse, or use of physical force.
 - (iv) Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules.
 - (v) Revocation of a prior License.
 1. Revocation. If a prior License was revoked, the three-year ban will run from the date of the revocation.
 2. Surrender While License Revocation Charges were Pending. If a prior License was surrendered to the Chairperson before the expiration date of the License, the three-year ban will run from the date the License is surrendered.
 3. License Expiration While License Revocation Charges were Pending. If a prior License expired while license revocation charges were pending, the three-year ban will run from the date the License expired.

(2) Two-Year Ban. The Chairperson can deny an Application if, during the previous two years, the Applicant has committed:

- (i) Any act constituting for-hire operation of a motor vehicle without a valid TLC License, except for the traffic infraction of unlicensed operation .
- (ii) Six or more violations of these Rules while holding any License or Licenses issued by the Commission. The two-year ban will be counted from the date of the last violation.

(3) One-Year Ban. The Chairperson can deny an Application if, during the previous one year, the Applicant has committed:

- (i) More than three traffic accidents within a single year. The one-year ban will be counted from the date of the last accident.
- (ii) The traffic infraction of unlicensed operation of a motor vehicle,
- (iii) *Prior Application Denied.* The Chairperson will deny an Application that is submitted within one year after the denial of a previous Application, if the previous Application was denied because the Applicant was found not Fit to Hold a License. The one year ban will be counted from the date the prior application was denied.

(4) Other Reasons for Denial of an Application.

- (i) *Mistake or Omission in the Application.* The Chairperson can deny an Application if the Application includes any material mistake or omission, or if the Applicant fails to inform the Chairperson of any material change in the Application.
- (ii) *Eligible for Critical Driver Penalty.* The Chairperson can deny an Application if the Applicant would if licensed be subject to License suspension or revocation under the Critical Driver Program at the time the Application is submitted.
- (iii) *Pendency of Criminal Charges.* The Chairperson will defer consideration of an Application if the Applicant has criminal charges pending. If the charges are not resolved within 90 days after the submission of the Application, the Application will be denied.

(d) *Failure to Complete Application Requirements.*

(1) The [Commission] Chairperson will deny an [a]Application for a new License if the Applicant has not completed all the requirements of an [a]Application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an [a]Application for a renewal License if the Applicant has not completed all the requirements of an [a]Application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an [a]Application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(e) *[Other Reasons. The Commission may deny a Commuter Van Driver's License whenever the Applicant has engaged in conduct that would be the basis for suspension or revocation.]*

Additional Consideration of an Application. If a review of the Application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the Application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

[(f) *Refusal to Renew. The Commission may refuse to renew a Commuter Van Driver's License for any of the reasons listed above in this section, as well as for the following:*

- (1) The Applicant has violated any provision of these Rules or any of the rules relating to commuter van service in Chapter 5, Title 19 of the Administrative Code.
- (2) The Applicant has engaged in any fraud or misrepresentation in connection with providing any transportation service.
- (3) The Applicant has failed to pay any penalty that has been properly imposed under these Rules.

- (4) The Applicant has been convicted of a crime that the Commission believes has a direct bearing upon the Applicant’s fitness or ability to perform the functions required of a Commuter Van Driver, or has been convicted of any offense that under Article 23-A of the NYS Corrections Law would provide a basis for the Commission to refuse to renew or to suspend or revoke a Commuter Van Driver’s License.
- (5) The Applicant has failed to maintain the conditions of operation that apply to Commuter Van Drivers.
- (6) The Applicant has been found to have violated any of the provisions of §8-107 of the Administrative Code of the City of New York concerning unlawful discriminatory practices in public accommodations in the operation of a commuter van service or a commuter van vehicle.]

Section 20. It is hereby proposed that section 57-10 of Title 35 of the Rules of the City of New York be amended by adding a new subdivision (e), to read as follows:

§57-10 Licensing – Care and Use of License

(e) Surrender of License. A Driver must surrender his or her License to the Commission immediately upon revocation of the License. The License must be surrendered within thirty days of the date of revocation.

<u>§57-10 (e)</u>	<u>Fine: \$1,000 to be paid if Driver applies for a new License of any type.</u>	<u>Appearance N/A</u>
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Section 21. It is hereby proposed that subdivision (d) of section 58-04 of Title 35 of the Rules of the City of New York be amended and that subdivision (h) be amended by adding a new paragraph (2), to read as follows:

§58-04 Licensing – General Requirements

...

(d) *Fit to Hold a License.* An individual or Business Entity must demonstrate to the satisfaction of the Commission that the Applicant is [qualified to assume perform the duties and obligations] Fit to Hold the License of an Owner of a Taxicab License.

...

(h) ...

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

Section 22. It is hereby proposed that subdivision (g) of section 58-08 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (i) be added, to read as follows:

§58-08 Licensing – Causes for Denial

(g) *Failure to Complete Application Requirements.*

- (1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 180 days of the date the application is filed.
- (2) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

...

(i) Additional Consideration of an Application. If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 23. It is hereby proposed that subdivision (1) of section 59A-04 of Title 35 of the Rules of the City of New York be amended by adding a new paragraph (2) and that a new subdivision (o) be added, to read as follows:

§59A-04 Licensing – General Requirements

...

(1) ...

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

...

(o) Fit to Hold a License. An Applicant for a For-Hire Vehicle License must demonstrate that the Applicant is Fit to Hold a License.

Section 24. It is hereby proposed that subdivisions (d) and (e) of section 59A-08 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (f) be added, to read as follows:

§59A-08 Licensing – Causes for Denial or Revocation

(d) *Prior Revocation.*

(1) [The Commission will not issue a For-Hire Vehicle License to any Applicant that has had a previous For-Hire Vehicle License revoked until there has been a Hearing to determine the Applicant’s fitness to hold a license.]
If the Applicant has had a previous For-Hire Vehicle License revoked, the Chairperson may deny the Applicant’s application if the previous revocation shows that the applicant is not Fit to Hold a License.

(2) To determine if a previously revoked For-Hire Vehicle License (“Revoked License”) will be attributed to this Applicant, the Commission will include any Revoked License held by any of the following:

- (i) All of Applicant’s Business Entity Persons, and
- (ii) Any other entity in which any of Applicant’s Business Entity Persons also serve as a partner, officer or shareholder.

(e) *Failure to Complete Application Requirements.*

(1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 45 days of the date the application is filed. This does not apply to inspections.

(2) The [Commission] Chairperson will deny an application for a renewal License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License. This does not apply to inspections.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

...

(f) Additional Consideration of an Application. If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 25. It is hereby proposed that subdivision (f) of section 59B-04 of Title 35 of the Rules of the City of New York be amended by adding new paragraph (2) and that a new subdivision (i) be added, to read as follows:

§59B-04 Licensing – General Requirements

...

(f) ...

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

(i) *Fit to Hold License.* An Applicant (including the individual, Business Entity or any Limited Business Entity Persons) must demonstrate that they are Fit to Hold a License.

Section 26. It is hereby proposed that subdivision (f) of section 59B-08 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (g) be added, to read as follows:

§59B-08 Licensing – Causes for Denial or Revocation

(f) *Failure to Complete Application Requirements.*

(1) The [Commission] Chairperson will deny an application for a new Black Car Base or Luxury Limousine Base License if the Applicant has not completed all the requirements of an application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal Black Car Base or Luxury Limousine Base License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License.

(3) The [Commission] Chairperson will deny an application for a new or renewal Livery Base Station License if the Applicant has not completed all the requirements of an application and has not completed all the requirements for Licensing as a Livery Base Station set forth in Section 59B-05 of this Chapter within 90 days of Commission approval of the application.

(4) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(g) Additional Consideration of an Application. If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License to operate a Base Station, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 27. It is hereby proposed that subdivision (g) of section 60A-04 of Title 35 of the Rules of the City of New York be amended and that subdivision (l) be amended by adding new subdivision (2), to read as follows:

§60A-04 Licensing – Requirements

...

(g) *Fitness to Hold License.* An Applicant must demonstrate that they are Fit to Hold a License. In making this determination, [T]he Commission will [determine an Applicant's fitness by examining] review the Applicant's (or Licensee's) criminal and driving records, medical and mental health records, and any history of drug or alcohol use.

(1) . . .

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

Section 28. It is hereby proposed that subdivision (f) of section 60A-07 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (g) be added, to read as follows:

§60A-07 Licensing – Causes for Denial

. . .

(f) *Failure to Complete Application Requirements.*

(1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 45 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(g) *Additional Consideration of an Application.* If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame

requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 29. It is hereby proposed that subdivision (b) of section 60A-08 of Title 35 of the Rules of the City of New York be REPEALED.

[(b) Right to Appeal On Denial. If the Commission denies an application for a new or renewal Paratransit Vehicle License:

- (1) The Applicant is entitled to a hearing before the Commission.
- (2) The Applicant can be represented by an attorney or by a non-attorney.
- (3) The Commission can, for cause, refuse to allow a non-attorney to represent the Applicant.]

Section 30. It is hereby proposed that subdivision (g) of section 60B-04 of Title 35 of the Rules of the City of New York be amended by adding new paragraph (2) and that a new subdivision (i) be added, to read as follows:

§60B-04 Licensing – General Requirements

...

(g) ...

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

...

(i) Fit to Hold License. An Applicant, including all persons who must be fingerprinted as specified by paragraph (b) of this section, must demonstrate that they are Fit to Hold a License to operate a Base Station.

Section 31. It is hereby proposed that subdivision (d) of section 60B-07 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (e) be added, to read as follows:

§60B-07 Licensing – Causes for Denial

...

(d) *Failure to Complete Application Requirements*

(1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(e) Additional Consideration of an Application. If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 32. It is hereby proposed that subdivision (d) of section 61A-04 of Title 35 of the Rules of the City of New York be amended and that subdivision (h) be amended by adding a new paragraph (2), to read as follows:

§61A-04 Licensing – General Requirements

...

(d) *Fit to Hold License.* No Commuter-Van License can be issued or renewed unless an Applicant demonstrates [to the satisfaction of the Commission] that the Applicant is [fit, willing, and able] Fit to Hold a License to operate a Commuter-Van Vehicle.

(h) ...

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

...

Section 33. It is hereby proposed that subdivision (e) of section 61A-07 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (f) be added, to read as follows:

§61A-07 Licensing – Causes for Denial

...

(c) *Complete Application Requirements*

(1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 45 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(f) *Additional Consideration of an Application.* If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License, the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 34. It is hereby proposed that subdivision (d) of section 61B-04 of Title 35 of the Rules of the City of New York be amended and that subdivision (j) be amended by adding new paragraph (2), to read as follows:

§61B-04 Authorization – Requirements

...

(d) *Fitness to Hold Authorization.* No Commuter-Van Service Authorization can be issued or renewed unless an Applicant demonstrates to the satisfaction of the Commission that the Applicant is [fit, willing, and able] Fit to Hold a License (Authorization) to operate a Commuter-Van Service.

(j) ...

(2) An Applicant, including an Applicant for a renewal License, must pay any fines related to their failure to surrender a previously revoked License (of any type), unless the Applicant can demonstrate in person or in writing that the License has been surrendered.

Section 35. It is hereby proposed that subdivision (d) of section 61B-07 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (f) be added. to read as follows:

§61B-07 Authorization – Causes for Denial

...

(d) *Failure to Complete Application Requirements.*

(1) The [Commission] Chairperson will deny an application for a new Authorization if the Applicant has not completed all the requirements of an application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal Authorization if the Applicant has not completed all the requirements of an application by the expiration date of the prior Authorization.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(f) *Additional Consideration of an Application.* If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License (Authorization), the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application.

Section 36. It is hereby proposed that subdivision (c) of section 62-04 of Title 35 of the Rules of the City of New York be amended to read as follows:

§62-04 Licensing – General Information Required

...

(c) [*Good Moral Character*]Fit to Hold a License. An individual Applicant and each Business Entity Person of an Applicant must [be of good moral character] demonstrate that they are Fit To Hold a License. [Moral character] Fit to Hold a License will be determined in part through fingerprinting and background investigations, as follows:

Section 37. It is hereby proposed that subdivision (d) of section 62-10 of Title 35 of the Rules of the City of New York be amended to read as follows:

§62-10 Licensing – Cause for Denial

...

(d) *Failure to Complete Application Requirements*

(1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal License if the Applicant has not completed all the requirements of an application within by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(e) *Additional Consideration of an Application*. If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License (Authorization), the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 38. It is hereby proposed that section 63-04 of Title 35 of the Rules of the City of New York be amended by adding new subdivision (j), to read as follows:

§63-04 Licensing – Requirements

...

(j) Fit to Hold a License. An Applicant (including the individual Applicant and all Limited Business Entity Persons of a Business Entity Applicant) for an original License must demonstrate that they are Fit to Hold a License.

Section 39. It is hereby proposed that subdivision (f) of section 63-07 of Title 35 of the Rules of the City of New York be amended and that a new subdivision(g) be added, to read as follows:

§63-04 Licensing – Causes for Denial

...

(f) *Failure to Complete Application Requirements.*

(1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson.

(g) Additional Consideration of an Application. If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License (Authorization), the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application.

Section 40. It is hereby proposed that subdivision (f) of section 64-04 of Title 35 of the Rules of the City of New York be amended to read as follows:

§64-04 Licensing – General Requirements

...

- (f) *[Good Moral Character] Fit to Hold a License*. The individual or Business Entity Person applying for a Taximeter License or its renewal must [be of good moral character] demonstrate that they are Fit to Hold a License, as determined in part through a review of the criminal history records from the New York State Division of Criminal Justice Services to be secured through fingerprinting of the following:

...

Section 41. It is hereby proposed that subdivision (c) of section 64-08 of Title 35 of the Rules of the City of New York be amended and that a new subdivision (d) be added, to read as follows:

§64-08 Licensing – Cause for Denial

(c) *Failure to Complete Application Requirements*

(1) The [Commission] Chairperson will deny an application for a new License if the Applicant has not completed all the requirements of an application within 90 days of the date the application is filed.

(2) The [Commission] Chairperson will deny an application for a renewal License if the Applicant has not completed all the requirements of an application by the expiration date of the prior License.

(3) The [Commission] Chairperson will not deny an application under this Rule if completion is delayed because the [Commission] Chairperson has not issued a final decision [in any fitness Hearing it requires] and the Applicant has complied with any requests made by the Chairperson .

(d) *Additional Consideration of an Application*. If a review of the application leads the Chairperson to believe that the Applicant may not be Fit to Hold a License (Authorization), the Chairperson may seek additional information from the Applicant. This request for additional information may be an in-person interview, telephone call, letter, e-mail, or other method of communication. This additional consideration may result in the denial of the application. Failure to provide any requested information within the time frame requested, or failure to appear at a scheduled interview will result in a denial of the application.

Section 42. It is hereby proposed that section 68-03 of Title 35 of the Rules of the City of New York be amended to read as follows:

§68-03 Definitions Specific to this Chapter

(a) *Commission Adjudications Tribunal (or Commission Tribunal)* is the judicial body that has, except as otherwise provided in these Rules, jurisdiction over:

- (1) Violations of Title 19, Chapter 5 of the Administrative Code
- (2) Violations of Commission Rules
- (3) Review of the fitness of [an Applicant or] a Licensee to hold a License

...

(d) **Fit to Hold a License** means that [the Applicant or Licensee is qualified (“fit”) to assume the duties and obligations of the particular TLC Licensee and meets and will continue to meet the qualifications for licensure established by applicable Rule or law, and that a Licensee or Applicant for a License will comply and continue to meet such qualifications and comply with such applicable Rule or law.]

- The Applicant or Licensee meets and will continue to meet all of the qualifications for the License sought or held as established by applicable Rules and laws.
- The Applicant or Licensee is of good moral character.
- The Applicant or Licensee has been and will be candid and forthcoming with the Commission and honest in dealing with the public.
- The Applicant or Licensee has reliably complied with and will reliably comply with all of the rules and laws associated with holding the particular TLC License.
- Where an Applicant has engaged in conduct that resulted or could have resulted in the suspension or revocation of a TLC License, the Applicant shows that he or she will not engage in similar conduct in the future.

Section 43. It is hereby proposed that section 68-17 of Title 35 of the Rules of the City of New York be amended to read as follows:

§68-17 Procedure for Finalizing Recommended Decisions

(c) *Final Decision by Chairperson.* The Chairperson will determine whether to accept, modify, or reject the Recommendation of the ALJ and will issue a Final Decision. Alternatively, the Chairperson can remand the matter to the ALJ for further consideration. The Final Decision will be precedent for deciding later cases that involve similar facts or issues.

Section 44. It is hereby proposed that subdivision (b) of section 68-18 of Title 35 of the Rules of the City of New York be amended to read as follows:

§68-18 ALJ's Final and Recommended Decisions

...

- (b) ALJ decisions will be final except for the following, which shall be Recommended Decisions:
 - (1) ALJ findings and penalty determinations as to the fitness of Licensees[or License Applicants]

Section 45. It is hereby proposed that section 68-20 of Title 35 of the Rules of the City of New York be amended to read as follows:

§68-20 Special Procedures – Fitness Hearings

- (a) The Chairperson becomes aware that an Licensee may not be Fit to Hold a License, the Chairperson may refer the Licensee for a Fitness Hearing. The Chairperson will notify the [Applicant or]Licensee to appear as Respondent for a fitness Hearing. [if the Chairperson believes] Charges that a Licensee [or Applicant for a License] is not Fit to Hold a License [including] may be as a result of, but are not limited to[, as a result of]:

...

- (d) [If the Respondent is or has ever been a Licensee, the Recommended Decision will be issued to the Chairperson.
- (e) If the Respondent is an Applicant who has never held a License issued by the Commission, t]The Recommended Decision will be [issued] submitted to the Chairperson.

[(f)](e) The Chairperson can accept, reject, or modify the Recommended Decision. The decision of the Chairperson will constitute the final[,] determination of the Commission.

[(g)](f)The License of a Licensee who is found to be not Fit to Hold a License will be revoked.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
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NEW YORK, NY 10007
212-788-1526**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Fitness Interview Rules
REFERENCE NUMBER: TLC-4
RULEMAKING AGENCY: TLC**

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) Provides a cure period.

/s/ Francisco Navarro
Mayor's Office of Operations

---05/06/2011-----
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

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

**RULE TITLE: Amendment of Fitness Interview Rules
REFERENCE NUMBER: 2011 RG 031
RULEMAKING AGENCY: Taxi and Limousine Commission**

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

Date: May 6, 2011

Acting Corporation Counsel