

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Promulgation of Rules

Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) promulgates rules implementing Executive Order 148 and transferring TLC adjudications to the Office of Administrative Trials and Hearings.

These rules are promulgated pursuant to sections 1043 and 2303(b) of the Charter and section 19-503 of the Administrative Code of the City of New York.

On September 12, 2013, a public hearing was held by the TLC at the TLC’s offices at 33 Beaver St., 19th Floor, New York, New York. These rules were approved at the hearing on September 12, 2013. These rules will take effect 30 days after publication.

Statement of Basis and Purpose

These rules amend the Taxi and Limousine Commission (TLC) Rules (Title 35 of the Rules of New York City) relating to adjudications of summonses and other enforcement actions to reflect the transfer of the administrative tribunal of the TLC (the TLC Tribunal) to the New York City Office of Administrative Trials and Hearings (OATH). This transfer took place on July 3, 2011, as a result of Mayoral Executive Order No. 148 of 2011 (EO 148).

Background

On November 2, 2010, the voters approved Revisions to the New York City Charter which granted the Mayor the authority to review the tribunals of various agencies, including TLC’s, to determine whether to consolidate them into OATH. The Mayor convened a Committee on Consolidation of Administrative Tribunals (the Committee) to make recommendations on the consolidation of several adjudicatory tribunals.

The Committee issued its report on June 5, 2011, and recommended that the TLC Tribunal and other tribunals be transferred to OATH, where the TLC Tribunal would become the “Taxi and Limousine Tribunal at OATH.” The report provided that after the transfer the new tribunal maintain certain TLC rules relating to adjudications as rules of OATH, with some resulting modifications, pending further rulemaking by TLC and OATH.

In EO 148 the Mayor adopted the Committee’s recommendation and ordered that the TLC Tribunal be transferred to OATH. EO 148 specified that the respective agencies may amend their rules to implement the transfer.

On July 3, 2011, the TLC Tribunal was transferred to OATH and is now the Taxi and Limousine Tribunal at OATH. Certain TLC Rules relating to adjudications (from Chapters 68 and 69 of the TLC Rules) became effective as Rules of OATH, pending further rulemaking by OATH and the TLC.

The Rules

The rules revise the TLC Rules to reflect the transfer to OATH of the TLC Tribunal and of most of the procedural rules governing the tribunal and its proceedings. OATH will publish a similar set of revisions to its rules (Title 48 of the Rules of the City of New York) to reflect the transfer. Most of the TLC's rule changes are deletions from the TLC Rules relating to adjudications; some are amendments to existing rules to reflect the transfer of the tribunal. Chapter 68 will retain rules for procedures that will remain with the TLC, including procedures for the service of summonses, determinations made by the TLC Chairperson, and the seizure and forfeiture of vehicles.

In addition, these rules include a process for the TLC Chairperson to review Appeals Unit decisions of the Taxi and Limousine Tribunal at OATH. The Committee on Consolidation recommended this Chairperson review process because the consolidation of the TLC Tribunal with OATH was not meant to supplant the TLC's authority to interpret TLC rules and regulations. The review process in the rules permits the Chairperson, after notice and opportunity to be heard, to accept, reject, or modify an Appeals Unit decision based on an interpretation of a TLC rule or regulation. The review will be based on issues of law, and either party may petition the Chairperson for review pursuant to this process. The Chairperson's decision will be made within 30 days of the non-petitioning party's deadline for response. The determination of an appeal by the Appeals Unit that is not acted upon by the Chairperson shall become a final decision of TLC.

The revisions:

- Update the definition sections to include the Taxi and Limousine Tribunal at OATH.
- Remove the adjudicatory tribunal as a power and duty of the TLC.
- Update the penalty sections to add the Taxi and Limousine Tribunal at OATH.
- Remove hearing procedures sections.
- Create a process by which the Chairperson may review interpretations of TLC rules and regulations made by the Taxi and Limousine Tribunal at OATH.
- Update the sections relating to summary suspensions and vehicle seizures to add the Taxi and Limousine Tribunal at OATH.
- Update the sections for vehicle forfeitures to reflect current case law that requires opportunity for a preliminary hearing on the continued retention of a vehicle during the forfeiture process.

New Material is underlined.

Deleted Material is bracketed []

Section 1. Section 51-03 of Title 35 of the Rules of the City of New York is amended by adding, deleting, or amending the following definitions, in alphabetical order:

[Administrative Law Judge (or ALJ) is an attorney admitted to practice law in the State of New York who has been appointed by the Commission to conduct administrative hearings for the Commission]

Appeal is the request for review of a decision of a Hearing Officer. [an ALJ an OATH ALJ].

Appeals Unit is a unit [of ALJs] within the [Commission Adjudications Tribunal] Taxi and Limousine Tribunal at OATH responsible for deciding cases on Appeal, who do not hear cases in the first instance.

[Commission Adjudications Tribunal (or Commission Tribunal)] **Taxi and Limousine Tribunal at OATH (or Taxi and Limousine Tribunal)** is the [judicial body] Office of Administrative Trials and Hearings tribunal established under Chapter 5 of Title 48 of the Rules of the City of New York 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

[De Novo is a legal term meaning “over again from the beginning.”]

Default is a decision against a Respondent after a Respondent fails to appear for a hearing, enter a plea, or make a request to reschedule as required by Chapter 5 of Title 48 of the Rules of the City of New York.

[Hearing Officer is the Administrative Law Judge who presides over a hearing.]

Hearing Officer is a person designated by the Chief Administrative Law Judge of OATH, or his or her designee, to carry out the adjudicatory powers, duties and responsibilities of the Taxi and Limousine Tribunal.

[Inquest is the presentation and consideration of evidence at a Hearing before an ALJ, when the Respondent has failed to appear.]

[OATH ALJ is an administrative law judge appointed by OATH.]

OATH Administrative Law Judge (OATH ALJ) is a person appointed by the Chief Administrative Law Judge of OATH, or his or her designee, pursuant to the Charter of the City of New York paragraph 1049(1)(a), to carry out the adjudicatory powers, duties and responsibilities of the OATH Tribunal

OATH Tribunal is the New York City Office of Administrative Trials and Hearings tribunal established by Charter subdivision 1048(1) and Chapter 1 of Title 48 of the Rules of the City of New York.

Recommended Decision. A Recommended Decision is a decision made by an OATH ALJ following a hearing that must be reviewed by the Chairperson, either in its entirety or for the appropriateness of the penalty being imposed, before it becomes final.

[**Representative** is a non-attorney authorized by the Commission to represent Respondents before the Commission's Adjudications Tribunal.]

Section 2. Chapter 52 of Title 35 of the Rules of the City of New York is amended by repealing subdivision (b) of section 52-04, relating to the establishment of an administrative tribunal within the Taxi and Limousine Commission, and by relettering subdivision (c) as subdivision (b).

Section 3. Subdivision (c) of section 53-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.],unless:

A. the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 4. Subdivision (c) of section 54-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 5. Subdivision (e) of section 54-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(e) **Mandatory Penalties.** If a Licensee has violated a Rule listed below, or any combination of these Rules, the [Commission] Taxi and Limousine Tribunal at OATH or, if applicable, the Chairperson will impose the following mandatory penalties and fines.

VIOLATION Description	Rule	Mandatory Penalty/Fine - ALL
1. Overcharging Passengers	§54-17(a)(1) & (2), 54-17(i)	First violation: \$350 if plead guilty before a hearing; \$500 if found guilty following a hearing.
2. Refusal of service – Unjustified refusal to transport Passengers within NYC or defined counties	§54-20(a)(1)	Second violation (any combination of violations) w/in 24 months: \$700 if plead guilty before a hearing; \$1,000 and possible suspension of License for up to 30 days if found guilty following a hearing.
3. Refusal of service – Requiring assistant for disabled Passengers, or seeking to charge additional fares for such an assistant	§54-20(a)(2)	
4. Refusal of service – Refusing to transport wheelchairs, crutches or other mobility aids for disabled Passengers	§54-20(a)(3)	Third violation (any combination of violations) w/in 36 months: \$750 and Revocation of License if plead guilty before a hearing; \$1,000 and Revocation of License if found guilty following a hearing.
5. Refusal of service – Seeking destination before Passenger is seated inside vehicle	§54-20(a)(4)	

- (1) *\$10-or-More Overcharge.* Notwithstanding the penalty cited above for overcharging passengers in violation of Rule 54-17(a)(1) and (2), if a Driver charges or attempts to charge \$10 or more above the approved rate of fare, the [Commission] Taxi and Limousine Tribunal at OATH or the Chairperson will revoke the Driver’s License and may require a Driver to return any overpayment to the Passenger.
- (2) *Calculating Time Periods.* The [Commission] Taxi and Limousine Tribunal at OATH or the Chairperson will count the 24- and 36-month penalty periods going backwards, from the date of the last violation.
- (3) *No License Issued for Period of One Year Following Certain Violations.* A driver who has had his or her Taxicab Driver’s License revoked for any of the above violations will not be able to receive any Commission License for a period of [one] 1 year from the date of revocation.

Section 6. Subdivision (c) of section 55-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 7. Subdivision (c) of section 56-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent’s License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 8. Subdivision (d) of section 56-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) **Mandatory Penalties.** If a Licensee has violated a Rule listed below, or any combination of these Rules, the [Commission] Taxi and Limousine Tribunal at OATH or, if applicable, the Chairperson will enforce the following mandatory penalties and fines:

VIOLATION Description	Rule	
1. Proper licensing	§56-11(a)	First Violation: \$100 - \$350
2. only Licensees can operate Paratransit Vehicles	§56-11(d)	Second Violation within 24 months: \$350 - \$500
3. refusal to serve	§56-20(a)	
4. refusal to transport equipment for disabled passengers	§56-15(k)(1)	Third Violation within 24 months: Revocation of relevant License for Driver, base owner, or owner found in violation
5. attempt to overcharge additional fare to passengers	§56-15(g)(1)	
6. can conduct prearranged service only	§56-19(a)	

- (1) The Commission can also suspend or revoke a Paratransit Driver’s License.
- (2) The 24-month period referred to above will be counted backward from the date of the most recent conviction.
- (3) Any individual or Business Entity whose License has been revoked will not be eligible for any Commission License for at least [one] 1 year after revocation.
- (4) The [Commission] Chairperson will automatically revoke the License of any Licensee who has [five] 5 or more summonses that remain open and outstanding for 12 months. The 12-month period will be counted from the date the earliest summons was issued.

Section 9. Subdivision (c) of section 57-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) **Payment of Fines.**

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 10. Subdivision (c) of section 58-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date

of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 11. Subdivision (c) of section 59A-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 12. Subdivision (c) of section 59B-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 13. Subdivision (c) of section 60A-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date

of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 14. Subdivision (c) of section 60B-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 15. Subdivision (c) of section 61A-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 16. Subdivision (c) of section 61B-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date

of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 17. Subdivision (c) of section 62-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 18. Subdivision (c) of section 63-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3) If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 19. Subdivision (c) of section 64-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date

of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 20. Subdivision (b) of section 65-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(b) Payment of Fines.

(1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

(i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

(2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules).

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 21. Subdivision (c) of section 82-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within 30 days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).
 - (3) If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within 7 calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of either 30 days from the date of the decision or 21 days from the date the recording is issued (see §68-14(f) of these Rules). (4)]If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 22. Subdivision (c) of section 83-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Payment of Fines.

- (1) Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:
 - (i) the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.
- (2) [If the Respondent files an appeal of the decision imposing the fines within thirty (30) days of the date of the decision, the payment of the fines will be deferred until a decision on the appeal is made (see §68-14(d) of these Rules).

If the Respondent requests a copy of the Hearing recording (see §68-14(e) of these Rules) within seven (7) calendar days of the hearing, the time for either filing an appeal or paying the fines will be the later to occur of:

- thirty (30) days from the date of the decision, or
- twenty-one (21) days from the date the recording is issued.

(3)] If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent’s License will be suspended in [ten] 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

Section 23. Title 35 of the Rules of the City of New York is amended by repealing Chapter 68 and adding a new Chapter 68, to read as follows:

CHAPTER 68	<u>PROCEDURES RELATING TO ENFORCEMENT</u>
-------------------	--

[Contents](#)

§68-01	<i>Scope of this Chapter</i>
§68-02	<i>Penalties</i>
§68-03	<i>Definitions Specific to this Chapter</i>
§68-04	<i>Forum</i>
§68-05	<i>Service of Summonses</i>
§68-06	<i>Contents of Summons</i>
§68-07	<i>Temporary Licenses Pending Appeal</i>
§68-08	<i>Failure to Prosecute by the Commission</i>
§68-09	<i>ALJ Final and Recommended Decisions</i>
§68-10	<i>Procedure for Finalizing Recommended Decisions</i>
§68-11	<i>Appeal of Chairperson’s Final Decision</i>
§68-12	<i>Chairperson Review</i>
§68-13	<i>Special Procedures – Mandatory Revocation and Discretionary Revocation (and Other Penalties)</i>
§68-14	<i>Special Procedures – Fitness Hearings</i>
§68-15	<i>Special Procedures – Summary Suspension Pending Revocation</i>
§68-16	<i>Special Procedures – Summary Suspension Pending Compliance</i>
§68-17	<i>Special Procedures – Seizures</i>

§68-18 *Special Procedures – Forfeitures*

§68-19 *Special Procedures – Removal and Storage Fees for Seized Vehicles*

§68-20 *Special Procedures – Settlements and Withdrawals*

§68-01 **Scope of this Chapter**

(a) To establish procedures for the enforcement of violations of TLC Rules and other laws enforced by the TLC, including the Administrative Code of the City of New York.

(b) To establish:

1. the requirements for imposing the immediate summary suspension of a License,
2. procedures and protections for Licensees whose Licenses have been revoked,
3. procedures and protections related to the seizure and forfeiture of unlicensed vehicles, and
4. the requirements for the settling and withdrawal of violations.

(c) These rules are to be read in conjunction with the rules and procedures established by the Office of Administrative Trials and Hearings, as described in Chapter 5 of Title 48 of the Rules of the City of New York.

§68-02 **Penalties**

(a) Prescribed Penalties. Whenever a Respondent is charged with a violation of any Commission Rule or Administrative Code Section, Respondent may be subject to the civil penalties as set forth in the Commission Rules or the Administrative Code.

(b) Discretionary Penalties. Where provided by local law, instead of any of the specific penalties in the Commission Rules, the Commission can, in its discretion, in accordance with subdivision (b) of section 68-13, revoke a License, suspend a License up to 6 months, and/or impose:

1. A fine, not to exceed \$10,000 for each violation, against:
 - (A) the Owner of a Licensed Taxicab or For-Hire vehicle,
 - (B) a Base,
 - (C) a Commuter Van Service or vehicle,
 - (D) a Paratransit service or vehicle,

(E) a Taximeter Business,

(F) a Taxicab Broker, or

(G) a Taxicab agent.

2. A fine, not to exceed \$1,000 for each violation, against a Licensed Driver.

(c) Imposition of Penalties. Any revocation, suspension, Persistent Violator Penalty or Penalty Points will become effective on the date the Respondent is found guilty of the violation.

1. Suspensions. Suspensions go into effect when the decision imposing the violation is issued. However, the length of the suspension will be calculated from the day the Licensee turns the License in to the Commission.

2. Fines are due not later than 30 days after the Respondent is found guilty of or pleads guilty to the violation[.], unless:

A. the Respondent files an appeal of the decision issued by the Taxi and Limousine Tribunal within the time required by Chapter 5 of Title 48 of the Rules of the City of New York, in which case the payment of the fines will be deferred until 30 days after the date of the appeal decision.

3. If the fine is not paid by the close of business on the date due, the Commission will notify the Respondent in writing that the Respondent's License will be suspended in 10 business days of the date of the notification until the fine is paid, unless the Respondent demonstrates to the Commission, in person or in writing, that the fine has been paid.

§68-03 Definitions Specific to this Chapter

(a) Appeal is the request for review of a decision of a Hearing Officer.

(b) Appeals Unit is a unit within the Taxi and Limousine Tribunal at OATH responsible for deciding cases on Appeal, who do not hear cases in the first instance.

(c) Default is a decision against a Respondent after a Respondent fails to appear for a hearing, enter a plea, or make a request to reschedule as required by Chapter 5 of Title 48 of the Rules of the City of New York.

(d) Discretionary Revocation is the imposition of the penalty of revocation when a Rule does not specify that revocation *must* be imposed; Discretionary Revocation can be sought by the Chairperson for *any* Rule violation, if the Chairperson determines that the continued licensure of the Respondent presents a threat to public health, safety, or welfare.

- (e) Hearing Officer is a person designated by the Chief Administrative Law Judge of OATH, or his or her designee, to carry out the adjudicatory powers, duties, and responsibilities of the Taxi and Limousine Tribunal.
- (f) Mandatory Revocation is the imposition of the penalty of revocation when a Rule specifies that revocation *must* be imposed.
- (g) Notice of Seizure is a document served upon and mailed to an owner of a vehicle that has been seized and removed to a secure facility.
- (h) OATH is the New York City Office of Administrative Trials and Hearings.
- (i) OATH Administrative Law Judge is a person designated by the Chief Administrative Law Judge of OATH, or his or her designee, pursuant to the Charter of the City of New York paragraph 1049(1)(a), to carry out the adjudicatory powers, duties and responsibilities of the OATH Tribunal.
- (j) OATH Tribunal is the New York City Office of Administrative Trials and Hearings tribunal established by Charter subdivision 1048(1) and Chapter 1 of Title 48 of the Rules of the City of New York.
- (k) Recommended Decision. A Recommended Decision is a decision made by an OATH ALJ following a hearing that must be reviewed by the Chairperson, either in its entirety or for the appropriateness of the penalty being imposed, before it becomes final.
- (l) Respondent is an individual or Business Entity who has been noticed and charged with a violation of one or more of these Rules or the Administrative Code, or with being not Fit to Hold a License.
- (m) Secondary Owner is an individual or Business Entity that has a lien or mortgage or any other type of legal interest in a vehicle.
- (n) Taxi and Limousine Tribunal at OATH (or Taxi and Limousine Tribunal) is the Office of Administrative Trials and Hearings tribunal established under Chapter 5 of Title 48 of the Rules of the City of New York.
- (o) Unlicensed Activity is the provision or advertising of any Commission-regulated for-hire transportation service by any (i) Licensee whose License is suspended, revoked, or expired and not yet renewed, or by any (ii) person who does not hold a Valid License or Authorization for the vehicle, for the driver of the vehicle and, if applicable, for the service. Unlicensed Activity specifically includes the activities specified in sections 19-506 and 19-528 of the Administrative Code and can subject the violator to the seizure and possible forfeiture of his or her vehicle.

§68-04 Forum

(a) The Commission may refer any adjudication to the OATH Tribunal instead of the Taxi and Limousine Tribunal at OATH. In this event, the OATH Tribunal's rules under Chapter 1 of Title 48 of the Rules of the City of New York will govern the case. The determination of the OATH Tribunal will be a recommendation to the Chairperson ("Recommended Decision").

§68-05 Service of Summonses

(a) Service. A Respondent must be served with a summons specifying the nature of the violation charged or the basis for any charge that the Respondent is not Fit to Hold a License.

(b) Licensees. Service of a summons upon a Licensee can be accomplished through:

1. personal service;
2. USPS first class mail addressed to the last Mailing Address filed with the Commission;
3. If the Licensee is a Vehicle Owner (of a Taxicab, For-Hire Vehicle, Paratransit Vehicle, or Commuter Van), by personal service upon the Driver, who must promptly forward the summons or notice to the Owner or Agent; a Driver who fails to do so will be in violation of these Rules.
4. If the Licensee is any Licensee other than a Vehicle Owner or Driver (for example, owner of a Commuter Van Service, For-Hire Vehicle Base, Paratransit Base, Taxicab Agent, or Taximeter Business), by personal service upon a person of suitable age and discretion employed by or acting as an agent of the Licensee at the Licensee's place of business.

(c) Non-Licensees. Service of a summons upon a Respondent who is not a Licensee can be accomplished through any of the following methods consistent with the requirements set in the Civil Practice Law and Rules:

1. By personal service;
2. By USPS first class mail addressed to the address on the Respondent's state-issued driver's License or vehicle registration.
3. If the Respondent is the registered owner of a vehicle, by personal service upon the driver of the vehicle.
4. If the Respondent is charged with operating an unlicensed Commuter Van Service, For-Hire Vehicle Base, Paratransit Base, Taxicab Agent, or Taximeter

Business, by personal service upon a person of suitable age and discretion employed by or acting as an agent of the Respondent at the Respondent's place of business.

§68-06 Contents of Summons

(a) Required Information. A summons must contain, at a minimum, the following information:

1. The date, time, and location of the alleged violation.
2. A description of the nature of the violation sufficient to inform the Respondent of the prohibited conduct, including the basis for any charge that the Respondent is not Fit to Hold a License.
3. The Rule or Administrative Code Section alleged to have been violated. If there is a conflict between the Rule or Code Section cited and the description of the violation, the description controls the final resolution of the issue.
4. The date, time, and location of the scheduled hearing on the violation, or instructions to the Respondent on how to schedule a hearing date.
5. Whether the Respondent must appear in person at the hearing.
6. If the rule violated includes the penalty of discretionary revocation, a specific statement that a finding of guilt could result in the revocation of the Respondent's License.
7. If the rule violated includes the penalty of mandatory revocation, a specific statement that a finding of guilt will result in the revocation of the Respondent's License.

§68-07 Temporary Licenses Pending Appeal

(a) Temporary License.

1. (A) If the Taxi and Limousine Tribunal's decision results in the suspension of the Respondent's License and the Respondent files a timely appeal, the Chairperson can, in his or her discretion, issue a temporary license pending the determination of the Appeals Unit.
(B) If the Appeals Unit's decision results in the suspension of the Respondent's License (or the continuance of the suspension) and the Chairperson notifies the Respondent of a review of the Appeals Unit decision pursuant to section 68-12, the Chairperson can, in her or her

discretion, issue a temporary license pending the determination of his or her review.

2. In deciding whether or not to issue a temporary license, the Chairperson can consider:

- (A) the Respondent's record,
- (B) the seriousness of the charges,
- (C) the likelihood of the success of the appeal, and
- (D) the significance of the issues raised on appeal.

§68-08 Failure to Prosecute by the Commission

- (a) If the Commission fails to request a hearing within one year from the date of the summons, the charges will be withdrawn.
- (b) If the Chairperson fails to make a determination after receiving a Recommended Decision within 120 calendar days of the date of receipt of the Recommended Decision, the charges will be dismissed.

§68-09 Final and Recommended Decisions

- (a) The decision of the Hearing Officer at the Taxi and Limousine Tribunal at OATH is final subject to the appeals process provided for in Chapter 5 of Title 48 of the Rules of the City of New York and the Chairperson review process provided for in section 68-12.
- (b) The determination of an ALJ at the OATH Tribunal will be a Recommended Decision, subject to review by the Chairperson for the following matters. These matters are not subject to the appeals process provided for in Chapter 5 of Title 48 of the Rules of the City of New York and the Chairperson Review process provided for in TLC Rule 68-12:
 - 1. findings and penalty determinations as to the fitness of Licensees under section 68-14 or as a result of Discretionary Revocation proceedings under section 68-13 of the TLC Rules;
 - 2. penalty determinations in padlocking or proceedings under subdivision (b) of section 19-528 of the Administrative Code; and
 - 3. findings and penalty determinations in Summary Suspension proceedings pending Revocation and in Summary Suspension proceedings pending Compliance.

§68-10 Procedure for Finalizing Recommended Decisions

(a) Respondent's Opportunity to Respond.

1. When a Recommended Decision is issued, the Respondent must be given an opportunity to provide a written response to the Chairperson.
2. The response from the Respondent must be limited to only the record of the hearing and the determination of the OATH ALJ.

(b) Submission to Chairperson. The Recommended Decision and record of the hearing will be submitted to the Chairperson along with any written comments submitted by the Respondent as provided in subdivision (a) of this section.

(c) Final Decision by Chairperson.

1. The Chairperson will determine whether to accept, modify, or reject the Recommendation of the OATH ALJ and will issue a Final Decision.
2. As an alternative to 1. above, and instead of issuing a Final Decision, the Chairperson can remand the matter to the OATH ALJ for further consideration.

§68-11 Appeal of Chairperson's Final Decision

(a) The only Chairperson's Final Decision that can be appealed to the Commissioners is a Final Decision that imposes Discretionary Revocation (see section 68-13).

(b) The Chairperson's Final Decision to impose Discretionary Revocation can be appealed to the Commissioners as follows:

1. The Respondent must file a written appeal with the Deputy Commissioner for Legal Affairs/General Counsel within 30 calendar days from the date of the Chairperson's final decision.
2. The filing must describe the basis for the appeal and must include all supporting statements and arguments.
3. The Chairperson can prescribe the form for the conduct and filing of these appeals.
4. A review of the Chairperson's decision by the Commissioners must be limited to the issues of law raised in the appeal submitted and whether the decision of the Chairperson and the Recommended Decision of the OATH ALJ are supported by substantial evidence. The Commissioners cannot review findings of fact or determinations of credibility by an OATH ALJ.
5. The Commission may submit a written response to any appeal filed by the Respondent.

6. The Respondent must be given the opportunity to respond in writing to the Commission's written submission.
7. The Commissioners must each receive a copy of the OATH ALJ's Recommended Decision, the Chairperson's Final Decision, the Respondent's appeal, and any responses filed by the Commission or the Respondent.
8. The Commission must affirm, reject, modify, or remand the Chairperson's Final Decision.
 - (A) A minimum of 5 votes is required to reject, modify, or remand the Final Decision.
 - (B) If there are fewer than 5 votes to reject, modify, or remand the Final Decision, the decision is affirmed.
 - (C) The Chairperson cannot vote on these appeals.
9. The Commission must communicate at a public meeting the results of the vote and the action taken.

§ 68-12 Chairperson Review

- a. The Chairperson, or if he or she designates, the General Counsel for the TLC, may review any determination of the Appeals Unit that interprets any of the following:
 - (1) A rule set forth in Title 35 of the Rules of the City of New York;
 - (2) A provision of law set forth in Chapter 5 of Title 19 of the Administrative Code;
 - (3) A provision of law set forth in Chapter 65 of the City Charter.
- b. Upon review of a determination of the Appeals Unit, the Chairperson or the General Counsel may issue a decision adopting, rejecting or modifying the Appeals Unit decision. The Chairperson will be bound by the findings of fact in the record and will set forth his or her decision in a written order. The Chairperson's interpretation of the Commission's rules and the statutes it administers shall be considered agency policy and must be applied in future adjudications involving the same rules or statutes.
- (c) Process for Chairperson Review.
 1. Within 30 days of service by OATH of the determination of an appeal by the Appeals Unit of the Taxi and Limousine Tribunal, either party may petition the Chairperson to reject the determination by delivering a petition to the General Counsel of the TLC and mailing a copy to the adverse party.
 - A. Petitions to the Chairperson must state the errors of law that the Petitioner wishes to have reviewed, and must be accompanied by a copy of the decision of the Appeals Unit.
 2. If the respondent delivers and mails such a petition, TLC may submit an answer to the petition within 30 days by delivering such an answer to the General

Counsel of TLC and serving it on the respondent. Unless the Chairperson takes action on the respondent's petition within 30 days of its delivery, the determination of the appeal by the Appeals Unit shall become the final decision of the Taxi and Limousine Tribunal.

3. If TLC delivers and mails such a petition, within 30 days the Chairperson may notify the respondent that he or she is considering the petition, and within 30 days thereof, the respondent may mail an answer to the General Counsel of TLC. If the Chairperson does not notify the respondent that he or she is considering the petition within 30 days of its receipt, or takes no action on the petition within 30 days of the receipt of respondent's answer or within 60 days of its notification to the respondent if no answer is received, the determination of the appeal by the Appeals Unit shall become the final decision of the Taxi and Limousine Tribunal.
4. In reviewing the determination of the Appeals Unit of the Taxi and Limousine Tribunal at OATH, the Chairperson shall be bound by the findings of fact in the decision.
5. The determination of an appeal by the Appeals Unit that is not acted upon by the Chairperson shall become a final decision of the Taxi and Limousine Tribunal

§68-13 Special Procedures – Mandatory Revocation and Discretionary Revocation (and Other Penalties)

- (a) Mandatory Revocation. Mandatory License revocation will be imposed when a Respondent is found liable for a violation in which mandatory revocation is specified.
- (b) Discretionary Penalties. If the Commission seeks Discretionary Revocation or other discretionary penalties as specified in subdivision (b) of section 68-02, the following procedure must be followed.
 1. The Chairperson must determine that the continued licensure of the Respondent presents a threat to public health, safety, or welfare.
 2. The proceeding must be commenced before the OATH Tribunal.
 3. The Commission must notify the Respondent of the proceeding by serving a written summons detailing the charged misconduct and warning the Respondent that a finding of guilt could result in License revocation.
 4. The Respondent must be served with charges according to the procedures in Chapter 1 of Title 48 of the Rules of the City of New York, which include the location, date, and time of any scheduled hearing.
 5. The hearing will be conducted by an OATH ALJ and governed by the procedures in Chapter 1 of Title 48 of the Rules of the City of New York. The affirmative

defenses set forth in subdivision (b) of section 19-512.1 of the Administrative Code will be available in the hearing.

6. The OATH Tribunal decision will be a Recommended Decision. The recommended penalties can include:
- (A) License revocation,
 - (B) License suspension for a period up to 6 months,
 - (C) a fine not to exceed \$1,000 for each offense for which a Licensed Driver is found guilty, and
 - (D) a fine not to exceed \$10,000 for each offense for which any other Respondent is found guilty.

§68-14 Special Procedures – Fitness Revocation Hearings

- (a) The Chairperson will notify the Licensee to appear as a Respondent for a fitness hearing if the Chairperson believes that a Licensee is not Fit to Hold a License, for the following reasons, based upon:
- 1. Any act that implicates the Licensee’s ability to safely interact with the public or operate a TLC licensed vehicle, including but not limited to:
 - (A) 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;
 - (B) Any act, as prohibited by these Rules, of bribery, fraud, material misrepresentation, theft, threat against a person, harassment, abuse, or use of physical force;
 - (C) Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules;
 - 2. Any felony conviction;
 - 3. Any conviction of the following criminal offenses:
 - A. Assault in the third degree, as set forth in PL § 120.00;
 - B. Reckless endangerment in the second degree, as set forth in § 120.20;
 - C. Criminal obstruction of breathing, as set forth in § 121.11;
 - D. Sexual misconduct, as set forth in PL § 130.20;
 - E. Forcible touching, as set forth in PL § 130.52;

- F. Sexual abuse in the third or second degree, as set forth in PL § 130.55 and § 130.60, respectively;
 - G. Promoting prostitution in the third, second, or first degree, as set forth in PL § 230.25, § 230.30, and § 230.32, respectively;
 - H. Compelling prostitution, as set forth in PL § 230.33;
 - I. Sex trafficking, as set forth in PL § 230.34;
 - J. Public lewdness, as set forth in PL § 245.00;
 - K. Endangering the welfare of a child, as set forth in PL § 260.10;
 - L. Criminal possession of a weapon in the fourth degree, as set forth in PL § 265.01;
 - M. Overdriving, torturing, and injuring animals or failing to provide proper sustenance, as set forth in AGM § 353;
 - N. Leaving the scene of an accident, as set forth in VAT § 600.2;
 - O. Driving while ability impaired, as set forth in VAT § 1192.1;
 - P. Operation of a motor vehicle while intoxicated, as set forth in VAT § 1192.2;
 - Q. Operation of a motor vehicle with an illegal blood-alcohol content, as set forth in VAT § 1192.3;
 - R. Driving while ability impaired by drugs, as set forth in VAT § 1192.4.
4. A failed drug test as a result of illegal drug use or failure to comply with drug testing procedures.
- (b) Prior to the hearing, the Commission must notify the Respondent of the proceeding by serving a written summons specifying the reason the Respondent is not Fit to Hold a License and warning the Respondent that a finding of guilt could result in License revocation.
- (c) The OATH Tribunal's decision after the hearing will be a Recommended Decision.
- (d) The Chairperson can accept, reject, or modify the Recommended Decision. The decision of the Chairperson will constitute the final determination of the Commission.
- (e) In determining whether the Licensee is to be deemed unfit, to the extent possible, the Chair shall consider, as guided by the New York State Correction Law §753, the following factors in his Decision:
- 1. The specific duties and responsibilities necessarily related to licensure as a driver licensed by the TLC.
 - 2. The bearing, if any, the criminal offense or offenses for which the Licensee was previously convicted will have on his fitness or ability to perform such duties or responsibilities as are necessary to safely transport the riding public as a driver licensed by the TLC.
 - 3. The time which has elapsed since the occurrence of the criminal offense or offenses.

4. The age of the Licensee at the time of occurrence of the criminal offense or offenses.
5. The seriousness of the offense or offenses.
6. Any information produced by the Licensee, or produced on his behalf, in regard to his rehabilitation and good conduct.
7. The legitimate interest of the Commission in protecting property, and the safety and welfare of specific individuals or the general public.
8. In making this determination, the Chairperson shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the Licensee, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

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

§68-15 Special Procedures – Summary Suspension Pending Revocation

(a) Summary Suspension.

1. The Chairperson can summarily suspend a License if the Chairperson believes that continued licensure would constitute a direct and substantial threat to public health or safety, pending revocation proceedings.
2. Any Licensee whose License is summarily suspended is entitled to a Summary Suspension hearing at the OATH Tribunal as set forth below.
3. The Commission will notify the Licensee either by personal service or by USPS first class mail of the Summary Suspension, within 5 days of the suspension.

(b) Summary Suspension or Revocation Hearing. If a Revocation hearing is not scheduled to be held within 15 calendar days from the suspension:

1. The Respondent can request a hearing on the Summary Suspension by notifying the Commission within 10 calendar days from receiving the notice of suspension.
2. Upon receipt of a request for a hearing, the Commission must request a Summary Suspension hearing to be held within 10 calendar days of the receipt of the request (if the tenth day falls on a Saturday, Sunday or holiday, the hearing may be held on the next business day), unless the Chairperson determines that the hearing will impair an ongoing civil or criminal investigation.
3. No Summary Suspension hearing will be required where the Revocation hearing is scheduled within 15 calendar days of the suspension.
4. If a Respondent does not request a hearing on the Summary Suspension within the time specified in paragraph (1) of this subdivision, then all of the following apply:
 - (A) the Respondent is deemed to have waived the opportunity to be heard on

an expedited basis.

(B) The Respondent will be scheduled for a hearing on the underlying violation in accordance with the normal procedures set forth in Chapter 1 of Title 48 of the Rules of the City of New York.

(C) The Summary Suspension will be continued until lifted by the OATH ALJ in the Revocation hearing.

(c) Conduct of Summary Suspension Hearing.

1. The Summary Suspension hearing will be conducted according to the hearing procedures established in Chapter 1 of Title 48 of the Rules of the City of New York.

2. Where applicable, the affirmative defenses will include those provided in subdivision (b) of section 19-512.1 of the Administrative Code.

3. The decision in the Summary Suspension hearing will be a Recommended Decision that includes findings of fact, conclusions of law, and a recommendation as to continuation of the suspension.

4. The decision of the Chairperson is the final determination of the Commission with respect to the Summary Suspension.

5. If the Chairperson does not render a decision within 60 calendar days from the end of the Summary Suspension hearing, the suspension must be lifted until the decision is rendered.

(d) Summary Suspension for Criminal Charges.

1. The Chairperson can summarily suspend a License based upon an arrest on criminal charges if the Chairperson believes that the charges, if true, would demonstrate that continued licensure would constitute a direct and substantial threat to public health or safety. Such charges include but are not limited to the following:

(A) 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;

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

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

(D) Any felony conviction;

- (E) Or any conviction of the following criminal offenses:
- A. Assault in the third degree, as set forth in PL § 120.00;
 - B. Reckless endangerment in the second degree, as set forth in § 120.20;
 - C. Criminal obstruction of breathing, as set forth in § 121.11;
 - D. Sexual misconduct, as set forth in PL § 130.20;
 - E. Forcible touching, as set forth in PL § 130.52;
 - F. Sexual abuse in the third or second degree, as set forth in PL § 130.55 and § 130.60, respectively;
 - G. Promoting prostitution in the third, second, or first degree, as set forth in PL § 230.25, § 230.30, and § 230.32, respectively;
 - H. Compelling prostitution, as set forth in PL § 230.33;
 - I. Sex trafficking, as set forth in PL § 230.34;
 - J. Public lewdness, as set forth in PL § 245.00;
 - K. Endangering the welfare of a child, as set forth in PL § 260.10;
 - L. Criminal possession of a weapon in the fourth degree, as set forth in PL § 265.01;
 - M. Overdriving, torturing, and injuring animals or failing to provide proper sustenance, as set forth in AGM § 353;
 - N. Leaving the scene of an accident, as set forth in VAT § 600.2;
 - O. Driving while ability impaired, as set forth in VAT § 1192.1;
 - P. Operation of a motor vehicle while intoxicated, as set forth in VAT § 1192.2;
 - Q. Operation of a motor vehicle with an illegal blood-alcohol content, as set forth in VAT § 1192.3;
 - R. Driving while ability impaired by drugs, as set forth in VAT § 1192.4.

2. The Chairperson need not commence revocation proceedings while the criminal charges are pending. However, the Respondent is entitled to request a Summary Suspension hearing.
3. At the Summary Suspension hearing, the issue will be whether the charges underlying the Licensee's arrest, if true, demonstrate that the continuation of the License while awaiting a decision on the criminal charges would pose a direct and substantial threat to public health or safety.
4. Within 5 business days from the date the Commission receives from the Licensee a certificate of disposition of the criminal charges, the Chairperson must either lift the suspension if the charges are not sustained or commence revocation proceedings.

§68-16 Special Procedures – Summary Suspension Pending Compliance

- (a) Summary Suspension. If the Chairperson finds that the Licensee is not in compliance

with a rule in this title that provides for “summary suspension until compliance,” the Licensee’s TLC-issued License can be summarily suspended until compliance pending an opportunity to be heard.

(b) Notice to Licensee. The Commission will send a notice to the Licensee (Respondent) by personal service or by USPS first class mail to the Respondent’s current Mailing Address with the following information:

1. That the Respondent’s TLC-issued License is being suspended for a violation of the Commission’s rules or applicable provision of the Administrative Code.
2. A description of the nature of the violation.
3. That the Respondent’s License will be suspended:
 - (A) Immediately upon service of the notice if made by personal service; or
 - (B) Five days from the date of the mailing if the notice was sent by USPS first class mail to the Respondent’s current Mailing Address.
4. That the Respondent has the right to an expedited hearing at the OATH Tribunal by following the instructions contained in the notice and responding:
 - (A) Within 10 calendar days from receiving the notice, if notice was given by personal service; or
 - (B) Within 15 calendar days from the mailing of the notice of suspension, if the notice was mailed.

(c) Respondent’s Right to Expedited Hearing.

1. Except as set forth in subdivision (d) of this section, any Licensee whose License has been summarily suspended is entitled to an expedited hearing at the OATH Tribunal, provided the Licensee or Respondent requests an expedited hearing by notifying the Commission
 - (A) within 10 calendar days from receiving the notice referred to in subdivision (b) of this section, if notice was given by personal service, or
 - (B) within 15 calendar days from the mailing of the notice of suspension, if the notice was mailed.
2. Scheduling a Summary Suspension Hearing.
 - (A) Upon receipt of a timely request for an expedited hearing, the Commission must request a suspension hearing (or a hearing on the underlying violation) to be held within 10 calendar days of the Commission’s receipt of the request (if the tenth day falls on a Saturday, Sunday or holiday, the

hearing may be held on the next business day).

(B) The Summary Suspension hearing will be conducted according to the hearing procedures established in Chapter 1 of Title 48 of the Rules of the City of New York.

3. The decision in the Summary Suspension hearing will be a Recommended Decision that includes findings of fact, conclusions of law, and a recommendation as to continuation of the suspension.

4. The decision of the Chairperson is the final determination of the Commission with respect to the Summary Suspension.

5. If the Chairperson does not render a decision within 60 calendar days from the end of the Summary Suspension hearing, the suspension must be lifted until the decision is rendered.

6. Failure to Request an Expedited Hearing on the Suspension. If a Respondent does not request an expedited Hearing within the time specified in paragraph (1) of this subdivision, then all of the following apply:

(A) The Respondent is deemed to have waived the opportunity to be heard on an expedited basis.

(B) The Respondent will be scheduled for a hearing on the underlying violation in accordance with the normal procedures set forth in Chapter 1 of Title 48 of the Rules of the City of New York.

(C) The Summary Suspension will be continued until lifted by the OATH ALJ in the hearing on the underlying violation or until the Licensee furnishes proof of compliance satisfactory to the Chairperson.

(d) Respondent's Right to be Heard Through Written Documentation.

1. Violation of Drug-Testing Rules. A Taxicab or For-Hire Vehicle Driver who fails to be timely tested for drug use, in accordance with subdivision (c) of section 54-14 or subdivision (d) of section 55-14 of these Rules, and whose License is then summarily suspended, is not entitled to a hearing, but can provide the Commission, within 10 calendar days of the notice described in subdivision (b), with a single submission of written documentation refuting the suspension of his or her License.

2. Hearing Officer Review of Documentation. The Commission will submit the documentation submitted by a Licensee refuting the Summary Suspension to the Taxi and Limousine Tribunal at OATH which will then issue a decision including findings of fact and conclusions of law. This decision can be appealed in accordance with the process established in Chapter 5 of Title 48 of the Rules of the City of New York.

3. Failure to Submit Documentation. If the Driver does not timely submit written documentation refuting the Summary Suspension, the opportunity to be heard is waived and the Driver will be deemed to be guilty of the violation.
- (e) Continuation of a Suspension. The TLC will reinstate the License of any Licenses suspended under this section after the Licensee pays all fines assessed and complies with the underlying Commission rule or Administrative Code provision to the satisfaction of the Chairperson or his or her designee.

§68-17 Special Procedures – Seizures

(a) Right to Seize Vehicle.

1. The Commission and/or any police officer may seize any vehicle where probable cause exists to believe that the vehicle is operated or engaged in Unlicensed Activity as set forth in sections 19-506 and 19-529.2 of the Administrative Code.
2. The driver and all passengers in a seized Commuter Van will be left in or transported to a location that is readily accessible to other means of public transportation.
3. Any vehicle that has been seized will be taken to a designated secured facility.

(b) Procedure After Seizure.

1. The officer or representative of the Commission seizing the vehicle will serve a summons for Unlicensed Activity and a notice of seizure of the vehicle by service upon the Owner and any person who using the vehicle with the permission of the Owner, express or implied, at the time of seizure. The notice of seizure will include, but not be limited to, the following information:
 - (A) Identification of the seized vehicle;
 - (B) Information concerning these regulations;
 - (C) If the vehicle is subject to forfeiture at the time of seizure, notification of the Owner's right, upon conviction of Unlicensed Activity, to present evidence of hardship for consideration in determining whether the TLC will retain possession of the vehicle pending forfeiture.
 - (D) The designated secured facility to which the vehicle was or will be taken.
2. The summons against the Owner will set a date and time for a hearing at the Taxi and Limousine Tribunal at OATH to take place no later than:

(A) 7 calendar days (or the next business day if the seventh day is not a business day) following seizure of a Paratransit Vehicle.

(B) 14 calendar days (or the next business day if the fourteenth day is not a business day) following seizure of a For-Hire Vehicle or Taxicab.

(C) 5 business days following seizure of a Commuter Van.

3. An officer or representative of the Commission will also mail the notice of seizure and a copy of the summons to the Owner of the seized vehicle, as listed in the records of the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered.

(A) The notice of seizure and copy of the summons will be mailed to the Owner of a seized Commuter Van within 1 business day.

(B) Any defect in delivery or mailing of the notice of seizure and copy of the summons will not affect the validity of service of a summons served upon the Owner in accordance with paragraph (1) of this subdivision.

4. For purposes of this section, the term Owner means:

(A) An Owner as defined in section 128 and section 388 of the Vehicle and Traffic Law, unless the vehicle is a Commuter Van;

(B) If the vehicle is a Commuter Van, the term Owner when used in this section means an Owner as defined in subdivision (i) of section 19-502 of the Administrative Code.

(c) Release of Vehicle Prior to Hearing if Vehicle is Not Subject to Forfeiture

1. The procedure described herein to obtain release of the vehicle prior to hearing applies if the Owner meets the following requirements. Otherwise, release of the vehicle is governed by subsection (d) of Rule 68-17.:

(A) The vehicle is not a Commuter Van, and the Owner has not been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code two or more times within the 36 months prior to the commitment of the violation resulting in the seizure.

(B) The vehicle is a Commuter Van, and the Owner has not been found to have committed violation of section 19-529.2 of the Administrative Code one or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

2. To obtain the release of a seized vehicle, an Owner who meets the eligibility requirements set forth in paragraph 1 of this subdivision must personally bring the

summons for Unlicensed Activity to the Commission on or before the scheduled hearing date, and either:

(A) Show proof of having pled guilty before the Taxi and Limousine Tribunal at OATH, whereupon:

A. The Commission must verify that the Owner meets the eligibility requirements in paragraph (1) of this subdivision;

B. The Commission must verify that a Taxi and Limousine Tribunal Hearing Officer has determined the amount of the civil penalty;

C. The Commission will determine the removal and storage fees;

D. The Owner must pay in full the civil penalty and removal and storage fees;

E. Upon receiving payment, the Commission will issue an order to release the vehicle;

F. The Owner or his or her agent can present the order at the designated secured facility to obtain the vehicle; or

(B) Post a bond, whereupon:

A. The Commission must verify that the Owner meets the eligibility requirements in paragraph (1) of this subdivision;

B. The Owner must post a bond in the amount of the maximum civil penalty, plus removal and storage fees determined by the Commission;

C. Upon the bond being posted, the Commission will issue an order to release the vehicle;

D. The Owner or his or her agent can present the order at the designated secured facility to obtain the vehicle.

(C) If the Owner does not obtain the vehicle by the date specified in the order of release, the Owner will be responsible for any further storage fees, which the Owner must pay before the vehicle will be released.

(d) Release of Vehicle Prior to Hearing if Vehicle is Subject to Forfeiture:

(1) A vehicle seized under the provision of subsection (a) of this section is subject to forfeiture and the Owner has a right to a hearing to determine custody of the

vehicle pending the forfeiture proceeding pursuant to section 68-18(e) of these rules if either of the following are true:

(A) The vehicle is NOT a Commuter Van and the Owner has been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code three or more times within the 36 months prior to the commitment of the violation resulting in the seizure, or,

(B) The vehicle is a Commuter Van and the Owner has been found to have committed violation of section 19-529.2 of the Administrative Code two or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

(e) Hearing on Unlicensed Activity.

1. The hearing against the Owner will be conducted at the Taxi and Limousine Tribunal at OATH according to the procedures in Chapter 5 of Title 48 of the Rules of the City of New York within the number of days specified in paragraph (2) of subdivision (b) of this section.

2. Default Review. If the Owner of the seized vehicle fails to appear for the hearing, a Default will be found in accordance with Chapter 5 of Title 48 of the Rules of the City of New York.

(A) The Default determination will include, and is subject to, the provisions of subdivision (g) of this section concerning Abandoned Vehicles.

(B) The Owner can appear at the Commission offices within 7 calendar days of the notice to comply with the Default determination or to show he or she has moved for an order vacating the Default determination.

(C) A hearing will be scheduled within 7 calendar days of the order vacating the Default determination.

3. A determination in a case of Unlicensed Activity with a Commuter Van will be issued within 1 business day of the conclusion of the hearing or Default.

(f) Hearing Decision.

1. Not Guilty Finding. If the Taxi and Limousine Tribunal at OATH finds that the charge of Unlicensed Activity has not been sustained, the vehicle will be released to the Owner without removal or storage fees.

2. Guilty Finding. If the Taxi and Limousine Tribunal at OATH finds that the vehicle has been engaged in Unlicensed Activity:

(A) If the vehicle is not subject to forfeiture, the Commission will release the vehicle to the Owner upon payment of the applicable civil penalties and all reasonable removal and storage costs.

(B) The vehicle is subject to forfeiture if either of the following are true:

(i) The vehicle is not a Commuter Van and the Owner has been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code two or more times within the 36 months prior to the commitment of the violation resulting in the seizure, or,

(ii) The vehicle is a Commuter Van and the Owner has been found to have committed violation of section 19-529.2 of the Administrative Code one or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

(C) If the vehicle is subject to forfeiture, the Commission will either:

(i) Release the vehicle to the Owner upon payment of the applicable civil penalties and all removal and storage fees as determined by the Commission, or

(ii) Commence a forfeiture action, provided that, in the case of a seized Commuter Van, the Commission must commence such forfeiture action within 10 days after the Owner's written demand for such vehicle.

(g) Appeal.

(1) If the Owner has been found guilty of Unlicensed Activity, he or she must pay the civil penalty and removal and storage fees in order to appeal.

(2) If the vehicle remains in custody in accordance with subparagraph (C)(ii) of paragraph (2) of subdivision (f) of this section, the Owner must pay only the civil penalty in order to appeal.

(3) If upon appeal the decision is reversed, the relevant civil penalty and fees will be refunded to the Owner.

(h) Declaration of abandonment.

(1) *Vehicles that are not Commuter Vans* Notwithstanding any other provision of this section, a seized vehicle, other than a seized Commuter Van, will be declared abandoned by the Commission or its agent, if the Owner of such vehicle does not:

(A) Remove the vehicle from storage within 5 days of obtaining an order of release; or

- (B) Pay the civil penalty and removal and storage fees within 5 days after a determination by the Taxi and Limousine Tribunal that the vehicle is eligible for release under paragraph (2) of subdivision (e) of this section; or
- (C) Within 7 calendar days after notice of a Default determination of violation is mailed to the Owner:

 - A. Pay the civil penalty and removal and storage fees if the vehicle is eligible for release after a determination of violation was made under paragraph (2) of subdivision (e) of this section, or
 - B. File a motion to vacate the Default determination of violation and set a new hearing on the violation.
- (2) Commuter Vans. If an Owner has not tried to reclaim a seized Commuter Van within 30 days after the Taxi and Limousine Tribunal mails notice of its final determination regarding the underlying the seizure, the vehicle will be declared abandoned, regardless of whether the owner was found guilty or not guilty of the violation.
- (3) All Vehicles. An abandoned vehicle will be disposed of by the City or its agent according to section 1224 of the NYS Vehicle and Traffic Law. If an Owner seeks to reclaim the abandoned vehicle under section 1224, the Owner will be deemed to have made a written demand for the vehicle and the Commission will take whichever action is authorized by this section

 - (A) In the event that a vehicle has been deemed abandoned, the Commission or its agent will:

 - (i) Mail notice to the Owner and any Secondary Owners that the vehicle has been declared abandoned and that, unless claimed within 10 days of the mailing date of the letter, the vehicle will become the property of the Commission and will be sold.
 - (ii) The Owner or any Secondary Owner can claim the vehicle by paying the removal and storage fees due and, in the case of the Owner, the civil penalty claimed that is now a lien on the vehicle.
 - (iii) If the vehicle is not claimed within the allotted time, the Commission or its agent can sell the vehicle by public auction or by bid.
 - (B) Disposition of the Proceeds from the Sale of the Vehicle.

 - (i) Proceeds from any sale, minus expenses incurred for removal,

storage and sale of the vehicle and minus the civil penalty lien, will be held without interest for the benefit of the former Owner of the vehicle for 1 year.

(ii) If these proceeds are not claimed within the 1-year period, they will be paid into the City's general fund.

§68-18 Special Procedures – Forfeitures

(a) For purposes of this section, the term Owner means:

- (1) An Owner as defined in section 128 and section 388 of the Vehicle and Traffic Law, unless the vehicle is a Commuter Van;
- (2) If the vehicle is a Commuter Van, the term Owner when used in this section means an Owner as defined in subdivision (i) of section 19-502 of the Administrative Code.

(b) A vehicle seized under the provision of subsection (a) of Rule 68-17 is subject to forfeiture if either of the following are true:

- (1) The vehicle is NOT a Commuter Van and the Owner has been found to have committed violation of subdivisions (b) or (c) of section 19-506 of the Administrative Code three or more times within the 36 months prior to the commitment of the violation resulting in the seizure; or
- (2) The vehicle is a Commuter Van and the Owner has been found to have committed violation of section 19-529.2 of the Administrative Code two or more times within the 5 years prior to the commitment of the violation resulting in the seizure.

(c) A forfeiture action is commenced by the filing of a summons with notice of right to a preliminary hearing or a summons and complaint according to the New York Civil Practice Law and Rules.

(d) Service of a summons with notice of right to a preliminary hearing or a summons and complaint will be made by the TLC or its agent:

- (1) By personal service (according to the New York Civil Practice Law and Rules) upon all Owners listed in the records of the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered;
- (2) By first class mail upon all individuals who have notified the Commission or the Taxi and Limousine Tribunal at OATH that they are an Owner of the vehicle; and
- (3) By first class mail upon all persons holding a valid security interest filed with the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered, at the address shown in the filing.

- (e) Preliminary Hearing for Custody of the Vehicle while Forfeiture Is Pending. The Owner of a vehicle subject to forfeiture is entitled to a preliminary hearing to determine custody of the vehicle pending the forfeiture proceeding in accordance with the following:
- (1) Upon receipt of notice of right to a preliminary hearing, the Owner may request the Commission to schedule a preliminary hearing at the OATH Tribunal to determine the probable validity of continued deprivation of the vehicle.
 - (2) Within 5 business days of the seizure, the Commission will serve notice, by personal service or by mail, on the Owner(s) specified in subdivision (c), and on the driver of the vehicle at the time it was seized, of the right to a preliminary hearing.
 - (3) Upon receipt of a request by the Owner for preliminary hearing, the Commission will request the OATH Tribunal to schedule a preliminary hearing to be held within 10 business days of the date of the Commission's receipt of the request. The Commission will notify, by personal service or by mail, the Owner(s) specified in subdivision (c) of the hearing date. Only one person may appear as an Owner at the hearing with priority going to the registered owner of the vehicle.
 - (4) In order to retain possession of the vehicle pending the forfeiture proceeding, the Commission must prove the following at the preliminary hearing:
 - (A) Probable cause for stopping the vehicle;
 - (B) Likelihood the vehicle was used in connection with Unlicensed Activity, or likelihood the Commission will prevail at the forfeiture proceeding;
 - (C) Likelihood the vehicle will not be returned if the Commission prevails at the forfeiture proceeding; and
 - (D) If the claimant is an innocent Owner who was not driving the vehicle at the time of seizure, that the Owner knew or should have known of the Unlicensed Activity or that the driver at the time of seizure is the beneficial owner.
 - (5) The decision by the OATH Tribunal will be made no later than 3 business days following the close of evidence and the completion of argument, unless both parties consent on the record or in writing to extend the time for the decision.
 - (6) If the OATH Tribunal determines, based on the standard set forth in paragraph (1) of this subdivision, that the vehicle should be released to the Owner during pendency of the forfeiture proceeding, then the vehicle will be released to such person or entity after they pay to the City any civil penalty due as a result of the Unlicensed Activity and reasonable expenses for the safekeeping of the vehicle from the time of seizure and its release.

- (7) If the OATH Tribunal determines that the vehicle should not be released during the forfeiture proceedings, the vehicle will remain in the custody of the City pending the final determination of the forfeiture action.
- (f) Asserting a Claim. Any Owner or Secondary Owner who receives notice of the forfeiture action and who claims an interest in the vehicle must assert a claim for the recovery of the vehicle or his or her interest in the vehicle by intervening in the forfeiture proceedings (in accordance with the New York Civil Practice Law and Rules).
- (g) Affirmative Defenses Required to Sustain a Claim. In order to sustain a claim in the vehicle, a claimant must plead and prove that he or she was not in any way a party to allowing the actions that constituted the violation, by showing that:
- (1) The claimant had no knowledge of the actions;
 - (2) If the claimant had knowledge of the actions, the claimant took all reasonable steps to prevent the use of the vehicle for the unlawful conduct and did not knowingly obtain his or her interest in the vehicle in order to avoid forfeiture of the vehicle; or
 - (3) The person who committed the actions that constituted the violation did not have lawful possession of the vehicle.
- (h) Public Sale Pursuant to Forfeiture.
- (1) Following judicial determination of forfeiture, a public sale of the forfeited vehicle will be held, and the net proceeds of the sale will go into the City's general fund. The City may retain a Commuter Van for official use.
 - (2) The public sale will be held no sooner than 30 days after the Owner is served notice of the judicial determination of forfeiture.
 - (3) At least 5 days before the sale, or, in the case of the sale of a Commuter Van, at least 20 days before the sale, notice of the sale:
 - (A) Must be published in the City Record or in a newspaper of general circulation, and
 - (B) Must be mailed to any Owner or Secondary Owner shown in the records of the Commission or listed in the records of the Department of Motor Vehicles (or equivalent agency) in the state in which the vehicle is registered.
- (i) Rights of Secondary Owners (*Other than Commuter Vans*).

- (1) A person wishing to assert an ownership claim to the vehicle must either:
 - (A) File a claim and participate in the forfeiture proceeding, or
 - (B) Submit a claim in writing to the Commission within 30 days after the judicial determination of forfeiture.
- (2) If a Secondary Owner submits the claim after the forfeiture hearing (but within 30 days of the judicial determination of forfeiture), the Commission will schedule a hearing at the OATH Tribunal and will mail notice to the claimant at least 10 business days before the hearing.
- (3) A person or entity that establishes a right of ownership or other legal interest in the vehicle (other than an owner whose interest has been forfeited) can recover the vehicle, provided such person or entity:
 - (A) Redeems the ownership interest which was subject to forfeiture, by paying the city the value of that interest;
 - (B) Pays the reasonable expenses for the safekeeping of the vehicle from the time of seizure and redemption; and
 - (C) Proves one of the affirmative defenses set forth in subdivision (g) of this section.
- (j) Rights of Secondary Owners Unaware of Forfeiture Proceedings of Commuter Vans.
 - (1) Any Secondary Owner of a Commuter Van who did not receive notice of the forfeiture action and who did not otherwise receive actual notice of the action may assert a claim within 6 months after the forfeiture.
 - (2) The claim must be one that could have been asserted in the original forfeiture action, and, as set forth in section 19-529.3 of the Administrative Code, must be adjudicated before the Justice of the Supreme Court who presided at the original forfeiture action.
 - (3) The court can grant the relief sought upon such terms and conditions as it deems reasonable and just if the claimant:
 - (A) Establishes that he or she was not sent notice of the commencement of the forfeiture action and did not know about the forfeiture action, and
 - (B) Proves one of the affirmative defenses set forth in subdivision (g) of this section.
- (k) Total Claims May Not Exceed Value of Vehicle at Sale.

- (1) In any forfeiture action of a commuter van, including a subsequent action started under subdivision (i) of this section, where the court awards a sum of money to one or more persons to satisfy the claims in the forfeited vehicle, the total amount awarded to satisfy all interests must not exceed the amount of the net proceeds from the sale of the forfeited vehicle.
- (2) The net proceeds is the amount remaining after deduction of the lawful expenses incurred by the City, including the reasonable costs of removal and storage of the vehicle from the time of seizure and the date of sale.

§68-19 Special Procedures – Removal and Storage Fees for Seized Vehicles

- (a) Removal Fee. The removal fee for all vehicles is one hundred eighty-five dollars (\$185).
- (b) Storage Fee.
 - (1) The storage fee for vehicles seized for unlicensed Taxicab, Paratransit, or For-Hire activity will be the fee set by the New York City Police Department or such other agency as may store the vehicles.
 - (2) The storage fee for vehicles seized for unlicensed Commuter Van activity is fifteen dollars (\$15) per day.

§68-20 Special Procedures – Settlements and Withdrawals

- (a) Settlements. The Chairperson and a Respondent may dispose of a summons by entering into a settlement agreement.
 - (1) The settlement agreement must be in writing.
 - (2) The settlement agreement may provide for penalties different than the penalties provided for in these Rules.
 - (3) The settlement agreement may provide for canceling an adjudication that is open or that has been completed. If the adjudication is open or completed before the Taxi and Limousine Tribunal at OATH or the OATH Tribunal, the Chairperson will promptly notify the tribunal.
 - (4) The settlement agreement may provide for penalties to be imposed, with or without a further hearing, if the Respondent does not comply with the terms of the settlement agreement.
 - (5) Unless the settlement agreement explicitly provides otherwise, the License of a Respondent who does not comply with the terms of the settlement agreement may be suspended by the Chairperson without a hearing until the Respondent complies

with the settlement agreement.

(6) By entering into a settlement agreement, the Chairperson and the Respondent both waive their rights to any further hearings or appeals on the summons or notice of violation that is disposed of by the settlement agreement.

(b) Withdrawals.

(1) The Chairperson may withdraw a summons, even if it has been adjudicated, if the Chairperson determines that it was:

(i) Written in error,

(ii) Ineffectively served on the Respondent, or

(iii) Written in contravention of the Chairperson's enforcement policy.

(2) If the Chairperson withdraws a summons:

(i) Any fine, suspension, revocation, or Persistent Violator Points or Penalty Points imposed after the hearing will be vacated.

(ii) Any fines paid will be refunded.

(iii) The Chairperson will notify the Respondent that the summons has been withdrawn.

(iv) If a withdrawn summons is open or has been completed before the Taxi and Limousine Tribunal at OATH or the OATH Tribunal, the Chairperson shall promptly notify the tribunal.

Section 24. Chapter 69 of Title 35 of the Rules of the City of New York, relating to the regulation of non-attorney Representatives authorized to appear before the administrative tribunal of the Taxi and Limousine Commission, is repealed.