

Rules of the City of New York
Title 24
Department of Health and Mental Hygiene

CHAPTER 7
ADJUDICATORY HEARINGS

§7-01 Adjudications Conducted by the Department.

(a) Pursuant to the New York City Charter, §§1041, 1046, 1047 and 1048, the Department of Health has determined that all adjudicatory hearings commenced by notice or finding of violation pursuant to Article 7 of the New York City Health Code, where the Department seeks a fine or monetary penalty, pertaining to enforcement of State and local health laws and regulations shall be conducted by the Department.

(b) *Hearing Examiners.*

(1) All adjudicatory hearings concerning matters described in subdivision (a) above, shall be conducted by Hearing Examiners assigned to the Administrative Tribunal who shall be appointed pursuant to Health Code §7.03(b).

(2) Such Hearing Examiners, when conducting adjudicatory hearings pursuant to Article 7 of the New York City Health Code as described in subdivision (a) above, shall make final findings of fact and conclusions of law, which shall be incorporated in a decision and order. Such final decisions shall be appealable as provided in Health Code §7.13.

§7-02 Adjudications Conducted by the Office of Administrative Trials and Hearings.

(a) Pursuant to New York City Charter §1048, the Department of Health has determined that the following adjudications pertaining to the enforcement of State and local health laws and regulations shall be conducted by the Office of Administrative Trials and Hearings, which shall make recommended findings of fact and recommended decisions. Such recommendations shall be subject to review by the Commissioner of Health who shall make final determinations and orders:

(1) *Enforcement hearings:* All adjudicatory hearings held in connection with the Commissioner's or Department's exercise of powers or authority under Chapter 22 of the City Charter, Title 17 of the Administrative Code, New York State Public Health Law, or Title 10 of the State of New York Codes, Rules and Regulations, or other applicable law, except as provided in §7-01 of these rules, when commenced by order of the Commissioner or Department, including but not limited to all orders to abate nuisances or other detrimental health conditions; orders to persons to show cause why the Department should not deny, suspend, or revoke permits; orders to seize, embargo, or condemn; orders to close premises; orders to cease and desist

acts or omissions; or orders to take any other action necessary to protect the public health.

(2) *Other due process hearings:* In addition, the Commissioner may delegate authority to the Office of Administrative Trials and Hearings to hear and make findings and recommendations in any matter wherein it is necessary to make factual determinations in connection with any enforcement action of the Department, as authorized by State or local law or regulation.

(3) *Hearings Pursuant to the Civil Service Law Regarding the Fitness and Discipline of Department Employees.* Pursuant to New York City Charter §1048, the Department of Health has determined that adjudicatory hearings conducted pursuant to New York Civil Service Law regarding the fitness and discipline of Department employees shall be conducted by the Office of Administrative Trials and Hearings, which shall make recommended findings of fact, determinations and orders. Such recommendations shall be subject to review by the Commissioner of Health who shall make the final agency determination.

(b) *Administrative law judges.* All adjudicatory hearings described in this section shall be conducted by administrative law judges assigned to the office of administrative trials and hearings who shall be appointed pursuant to §1049 of the Charter.

§7-03 Hearings Pursuant to the Civil Service Law Regarding the Fitness and Discipline of Department Employees. [Repealed]