§ 384. Commencement of proceedings; default judgments. a. The bureau shall conduct the proceedings authorized by local law in accordance with this section and with rules promulgated by the director.

b. Such proceedings shall be commenced by the service of notice of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein. The notice of violation when sworn to or affirmed shall constitute the testimony of the signator and, when filed with the bureau shall be admitted into evidence as such testimony at any hearing on the violation charged. Every such notice of violation shall state whether the facts set forth therein are known personally to the signator and if the facts are not so known the notice of violation shall specifically identify the source of knowledge of such facts. If the respondent disputes the facts stated in the notice of violation, the administrative law judge, where appropriate may reject the signator's facts, accept facts the respondent offers, or direct the signator's appearance.

c. (1) The form and wording of notices of violation shall be prescribed by the director. The notice of violation shall contain information advising the person charged of the manner and the time in which such person may either admit or deny the violation charged in the notice. Such notice of violation shall also contain a warning to advise the person charged that failure to plead in the manner and time stated in the notice may result in a default decision and order being entered against such person. The original or a copy of the notice of violation shall be filed and retained by the bureau and shall be deemed a record kept in the ordinary course of business.

(2) Every notice of violation shall identify the provision of law charged and shall set forth the factual basis for the violation. Where a notice of violation does not contain this information, it shall be dismissed at the request of the respondent or the administrative law judge may dismiss the notice of violation upon his or her own motion.

d. Where a respondent has failed to plead within the time allowed by controlling law or, if there is no such controlling law, by the rules of

the bureau, or has failed to appear on a designated hearing date or a subsequent date following an adjournment, such failure to plead or appear shall be deemed, for all purposes, to be an admission of liability and shall be grounds for rendering a default decision and order imposing a penalty up to the maximum amount prescribed under law for the violation charged. A default decision and order may be opened within one year of its entry upon written application showing excusable default and a defense to the charge; a default decision and order may thereafter be opened in the discretion of the director only upon written application showing excusable default, a defense to the charge, and good cause for the delay.

e. Any final order of the bureau imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the bureau against the respondent which may be entered in the city court or other equivalent court of the municipality or any other place provided for the entry of civil judgments within the state, and may be enforced against the respondent and his, her or its property without court proceedings in the same manner as the enforcement of money judgments entered in civil actions; provided however that no such judgment shall be entered which exceeds the jurisdiction of such city court or other court.

f. Notwithstanding the foregoing provision, before a judgment based upon a default may be so entered the bureau must have notified the respondent by first class mail in such form as the director may require; (1) of the default decision and order and the penalty imposed; (2) that a judgment may be entered in the city court or other equivalent court of the municipality or any other place provided for the entry of civil judgments within the state of New York; and (3) that entry of such judgment may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of the bureau within thirty days of the mailing of such notice.

g. The bureau shall not enter any final decision or order unless the notice of violation shall have been served in the same manner as is prescribed for service of process by article three of the civil practice

law and rules or article three of the business corporation law, except that:

(1) service of a notice of violation may be made by delivering such notice to a person employed by the respondent (A) to work on the premises the occupancy of which caused such violation, or (B) at the premises at which the respondent actually conducts the business the operation of which gave rise to the violation, or (C) at the site of the work with respect to which the violation occurred, or (D) at the place at which the violation occurred;

(2) service of a notice of violation may be made by certified mail, return receipt requested; and

(3) a notice of violation of any code or ordinance relating to the prevention of noise pollution caused by an audible motor vehicle burglar alarm or relating to the parking, stopping or standing of a motor vehicle may be served upon the owner of such motor vehicle by affixing such notice to such vehicle in a conspicuous place.

h. Proof of service made pursuant to this article shall be filed with the bureau and, where service is made by certified mail pursuant to paragraph two of subdivision g of this section, shall include the return receipt evidencing receipt of the notice served by mail. Service shall be complete ten days after such filing.

i. Where any final decision or order may not be entered and enforced as a judgment because the amount of civil penalty exceeds the jurisdictional amount of the city court or other equivalent court of the municipality, with respect to actions and proceedings for the recovery of money, such decision or order may be enforced by the commencement of an action or proceeding for the recovery of such civil penalties in a court of competent jurisdiction by the municipality.

j. Where service of a notice of violation is not made in a manner authorized by law for the violation charged, it shall be dismissed at the request of the respondent or the administrative law judge may dismiss the notice of violation upon his or her own motion.