

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? HPD is proposing amendments to chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules") to implement new requirements adopted by the State Legislature in Chapter 20 of the Laws of 2015.

When and where is the Hearing? HPD will hold a public hearing on the proposed rule. The public hearing will take place from 10:30 AM to 12:30 PM on Friday, April 15, 2016. The hearing will be in HPD's offices at 100 Gold Street, 9th Floor, Room 9P10, New York, New York 10038.

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

- **Website.** You can submit comments to HPD through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rules@hpd.nyc.gov.
- **Mail.** You can mail written comments to Elaine R. Toribio, TIP Director, 100 Gold Street, Room 8-D09, New York, New York 10038.
- **Fax.** You can fax written comments to HPD, 212 863-5899, ATTN: Elaine R. Toribio.
- **Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 863-7698. You can also sign up in the hearing room before the hearing begins on April 15, 2016. You can speak for up to three minutes.

Is there a deadline to submit written comments? All written comments must be submitted on or before April 15, 2016.

Do you need assistance to participate in the Hearing? You must tell the Department if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-863-7698. You must tell us by April 5, 2016.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and an audiotape of oral comments concerning the proposed rules will be available to the public at 421-a Customer Service Conference Room No. 8-CO9, 8th Floor, 100 Gold Street, between 10:00 am – 4:00 pm on weekdays.

What authorizes HPD to make this rule? Sections 1043 and 1802 of the City Charter and Section 421-a of the New York State Real Property Tax Law authorize HPD to make these proposed rules.

Where can I find the HPD rules? The HPD rules are in title 28 of the Rules of the City of New York.

What rules govern the rulemaking process? HPD must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

New York State Real Property Tax Law §421-a provides real property tax exemptions for eligible, new multiple dwellings. HPD determines eligibility for §421-a real property tax exemptions within the City of New York. HPD is proposing amendments to chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules") to implement changes enacted by the State Legislature regarding multiple dwellings that commence construction on or after June 15, 2015. The new State law prohibits the isolation of affordable units to a specific floor or area of a building and requires shared common entrances and common areas for all residents. The new State law defines common entrances as "any area regularly used by any resident for ingress and egress from a multiple dwelling."

The proposed rules prohibit isolation of affordable units by requiring that, whenever a story contains one or more affordable dwelling units, at least 30% of the units on such story must be market rate units. The proposed rules also define common areas and require them to be shared between all residents. Both of these provisions are now required by the new State law.

The proposed rules:

- Apply to all multiple dwellings that commence construction on or after June 15, 2015, and on or before December 31, 2015, and that receive their first temporary or permanent certificate of occupancy on or before December 31, 2019.
- Establish that in any story containing one or more affordable dwelling units not less than 30% of the dwelling units on such story must be market rate dwelling units, but authorizes HPD to waive this requirement in any multiple dwelling in which more than 50% of the dwelling units are affordable units.
- Establish that every building segment in a multiple dwelling must contain one or more affordable dwelling units.
- Establish that all common areas in a multiple dwelling must be open and accessible to all residents, including the residents of affordable dwelling units.

HPD's authority for these rules is found in section 1802 of the New York City Charter and section 421-a of the Real Property Tax Law.

New material is underlined.

[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (a) of section 6-09 of chapter 6 of Title 28 of the Rules of the City of New York is amended by adding new definitions in alphabetical order to read as follows:

Building segment. "Building segment" shall have the meaning set forth in Section 12-10 of the Zoning Resolution.

Commercial space. "Commercial space" shall mean any space within a building that is devoted to commercial, community facility or other non-residential use.

Common area. "Common area" shall mean any space within a building to which the residents of two or more dwelling units have access without paying a usage fee and that is not located in a dwelling unit, in a commercial space or in a service area.

Service area. "Service area" shall mean any space within a building that is utilized by the owner or manager of such building, and their respective employees, for purposes of building administration, and to which residential tenants do not normally have access.

Story. "Story" shall have the meaning set forth in Section 12-10 of the Zoning Resolution.

§ 2. Paragraph 4 of subdivision (b) of section 6-09 of chapter 6 of Title 28 of the Rules of the City of New York is amended to read as follows:

(4) [Reserved] For all multiple dwellings that commence construction on or after June 15, 2015, and on or before December 31, 2015, as determined pursuant to the definition of "commence" contained in §§421-a (2)(a)(iv)(A) and 421-a(2)(c)(ii) of the Real Property Tax Law, and that receive their first temporary or permanent certificate of occupancy covering all residential areas on or before December 31, 2019:

(i) If a story contains one or more GEA 60% AMI units or GEA SGA units, not less than thirty percent of the dwelling units on such story shall be units that are neither GEA 60% AMI units nor GEA SGA units, provided, however, that the Department may waive such requirement where the GEA 60% AMI units and GEA SGA units comprise more than fifty percent of the units in a multiple dwelling;

(ii) Every building segment in a multiple dwelling must contain one or more GEA 60% AMI units or GEA SGA units; and

(iii) All common areas in a multiple dwelling shall be open and accessible to the residents of all of the dwelling units in such multiple dwelling, including the residents of GEA 60% AMI units and GEA SGA units.

Commissioner Vicki Been
March 14, 2016

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Distribution Requirements for Affordable Housing

REFERENCE NUMBER: 2015 RG 143

RULEMAKING AGENCY: Department of Housing Preservation and Development

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: February 22, 2016

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Distribution Requirements for Affordable Housing

REFERENCE NUMBER: HPD-25

RULEMAKING AGENCY: Department of Housing Preservation and Development

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

February 22, 2016
Date