

**City of New York  
Office of Administrative Trials and Hearings  
Environmental Control Board**

**Notice of Promulgation of Rule**

**NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the** Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) in accordance with Sections 1049-a and 1043 of the New York City Charter. OATH ECB repeals its Landmarks Preservation Penalty Schedule in Section 3-114 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. The proposed rule repeal was published in *The City Record* on February 1, 2018, and a public hearing was held on March 28, 2018.

No one attended or testified at the public hearing concerning this rule repeal and OATH did not receive any written comments.

**Statement of Basis and Purpose of Rule**

The Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) repeals its Landmarks Preservation Penalty Schedule rule. This schedule is found in § 3-114 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY), and it contains penalties for violations of provisions in Title 25 of the Administrative Code of the City of New York. At the same time, the Landmarks Preservation Commission adopts a comprehensive set of revisions to its own rules, which includes the addition of a penalty schedule, located in an Appendix A of Chapter 11 of Title 63 of the RCNY.

The context for this repeal is that OATH ECB is in the process of repealing all penalty schedules in its rules codified at Subchapter G of Chapter 3 of Title 48 of the RCNY so that they can be incorporated into the rules of the agencies having rulemaking and policymaking jurisdiction over the laws underlying the violations.

Although OATH ECB is empowered to impose penalties under the New York City Charter and has until now promulgated penalty schedules, the regulatory and enforcement agencies have the necessary expertise to determine appropriate penalties for violation of the rules and of the laws within their jurisdiction based on the severity of each violation and its effect on City residents. Moving the penalty schedule will also make it easier for the public to find the penalties, which will be located within the same chapter as the rules supporting the violations alleged in the summonses. Finally, the rule repeal will speed up the rulemaking process by eliminating the need for OATH ECB approval of proposed or amended penalties for agency rules that have already been established by the legislature and/or that have already undergone the City Administrative Procedure Act (CAPA) process by the enforcement agency. The public will still have the opportunity to comment on proposed penalties during that process.

Working with the City's rulemaking agencies, the Law Department, the Mayor's Office of Management and Budget, and the Mayor's Office of Operations conducted a retrospective rules review of the City's existing rules, identifying those rules that could be repealed or

modified to reduce regulatory burdens, increase equity, support small businesses, and simplify and update content to help support public understanding and compliance. This rule repeal was identified as meeting the criteria for this initiative.

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**Section 1. The Landmarks Preservation Penalty Schedule, found in Section 3-114 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, is REPEALED.**



**THE CITY OF NEW YORK**  
**LAW DEPARTMENT**  
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DEC 10 2018

Hon. Fidel F. del Valle  
Commissioner  
Office of Administrative Trials and Hearings

Re: Repeal of LPC Penalty Schedule

No. 2018 RG 006

Dear Commissioner del Valle:

Pursuant to New York City Charter § 1043 subd. c, the above-referenced rule has been reviewed and determined to be within the authority delegated by law to your agency.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven Z. Goulden".

**STEVEN GOULDEN**  
Senior Counsel  
Division of Legal Counsel

cc: Simone Salloum, Esq.