

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Housing Preservation and Development (HPD) is proposing amendments to chapter 6 of title 28 of the Rules of the City of New York to make changes to the distribution requirements for affordable units in buildings receiving tax benefits under New York State Real Property Tax Law section 421-a (1-15)(the “421-a Statute”) that commenced construction on or after June 15, 2015. HPD’s proposed rule amendment to chapter 6 will amend the rules to clarify that HPD may waive the distribution requirements in buildings with only one dwelling unit on a story.

When and where is the Hearing? HPD will hold a public hearing on the proposed rules. The public hearing will take place from 11 am to 12:30 pm on Tuesday, March 13, 2018. The hearing will be in HPD’s offices at 100 Gold Street, 9th Floor, Room 9P-10, New York, New York 10038.

The location has the following accessibility options available: the building and hearing room are wheelchair accessible.

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 Meilan Chiu, Director of Operations and Policy Analysis, 100 Gold Street, Room 9Z-2, New York, New York 10038.
- **Fax.** You can fax written comments to HPD, 212 863-7156, ATTN: Meilan Chiu.
- **Hearing.** You can speak at the public 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) 863-6494. You can also sign up in the hearing room before the hearing begins on March 13, 2018. You can speak for up to three minutes.

Is there a deadline to submit written comments? All written comments must be submitted before the close of business on March 13, 2018.

What if I need assistance to participate in the Hearing? If you need a sign language interpreter or other reasonable accommodation of a disability at the Hearing, you must tell us no later than March 1, 2018 either by email at accessibility@hpd.nyc.gov, by telephone at 212-863-6494, or by mail at the address given above.

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. The proposed rules were included in HPD’s regulatory agenda.

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

Section 421-a of the Real Property Tax Law (RPTL) provides real property tax exemptions for eligible new multiple dwellings. In New York City, HPD determines eligibility for these exemptions and is responsible for ensuring that applicants for the exemption comply with eligibility requirements.

Chapter 20 of the Laws of 2015, which took effect on June 15, 2015, 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. This prohibition is what is known as the “distribution requirement”. The law defined common entrances as “any area regularly used by any resident for ingress and egress from a multiple dwelling.”

HPD adopted rules implementing these requirements on May 27, 2016. When the Affordable New York Housing Program was enacted by the State Legislature in 2017, it contained the same distribution requirement. HPD’s adopted rules implementing the Affordable New York Housing Program included an additional ground for waiver of the distribution requirements based upon a story containing a single dwelling unit. HPD is now proposing to amend the distribution requirements adopted for the former 421-a program to reflect this same additional ground for waiver and to clarify that the waiver is available for eligible buildings receiving benefits under either program.

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. Subparagraph (i) of paragraph 4 of subdivision (b) of section 6-09 of the Rules of the City of New York is amended to read as follows:

(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 either (A) the GEA 60% AMI units and GEA SGA units comprise more than fifty percent of the units in a multiple dwelling, or (B) there is only one dwelling unit on a story in a multiple dwelling;

Commissioner Maria Torres-Springer

February 7, 2018

**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: Amendment of Waiver Provisions for Distribution Requirement for Affordable Housing in 421-a Buildings

REFERENCE NUMBER: 2018 RG 004

RULEMAKING AGENCY: 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: January 19, 2018

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: Amendment of Waiver Provisions for Distribution Requirement for Affordable Housing in 421-a Buildings

REFERENCE NUMBER: HPD-49

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

January 19, 2018
Date