

## New York City Mayor's Office

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rule**

**What are we proposing?** The New York City Office of the Mayor ("Mayor's Office") proposes to add a new Chapter 16 to Title 43 of the Rules of the City of New York, setting forth review procedures for the modification or removal of certain deed restrictions.

**When and where is the hearing?** The Mayor's Office will hold a public hearing on the proposed rule. The public hearing will take place at 6:00pm on Tuesday, November 1, 2016. The hearing will be held at 125 Worth Street, 2<sup>nd</sup> Floor, New York, NY 10013.

This location has the following accessibility option(s) available: See accessibility legends at the end of this notice.

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

- **Website.** You can submit comments to the Mayor's Office through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [deedrestrictions@cityhall.nyc.gov](mailto:deedrestrictions@cityhall.nyc.gov).
- **Mail.** You can mail written comments to Office of the Counsel to the Mayor, Mayor's Office, City Hall, New York, NY 10007.
- **Fax.** You can fax written comments to (212) 788-0074.
- **Hearing.** You can speak at the public hearing. Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 386-0040. You can also sign up in the hearing room before the hearing begins on Tuesday, November 1, 2016. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** The deadline to submit written comments is Tuesday, November 1, 2016 until the close of the hearing.

**What if I need assistance to participate in the hearing?** You must tell the Mayor's Office if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may tell us by mail at the address given above or by calling the DCAS Diversity & EEO Office at (212) 386-0297. You must tell us by the close of business on Tuesday, October 25, 2016.

**Can I review the comments made on the proposed rule?** You can review the comments made online on the proposed rule 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 a summary of oral comments concerning the proposed rule will be available to the public at The Office of the DCAS General Counsel at 1 Centre Street-19th Floor North, New York, New York 10007.

**What authorizes the Mayor's Office to adopt this rule?** Section 1043 of the City Charter authorizes the Mayor's Office to make this proposed rule. This proposed rule was not included

in the Mayor's Office's regulatory agenda for this Fiscal Year because it was not contemplated when the Mayor's Office published the agenda.

**Where can I find the Mayor's Office's rules?** The Mayor's Office rules can be found in Title 43 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Mayor's Office must meet the requirements of Section 1043 of the Charter when creating or amending rules. This notice is made according to the requirements of Section 1043 of the Charter.

### **STATEMENT OF BASIS AND PURPOSE**

In conjunction with rulemaking conducted by the Department of Citywide Administrative Services (DCAS), the Mayor's Office is proposing to revise the process by which certain deed restrictions are modified or removed by the City of New York.

Deed restrictions are covenants that limit the uses of property. DCAS and other City agencies have imposed deed restrictions on thousands of properties throughout the City, both through the process by which City-owned properties are sold and also through the Uniform Land Use Review Procedure.

These rules will add new layers of review regarding proposed amendments to certain deed restrictions. A committee composed of officials from the Mayor's Office, Office of Management and Budget, and Office of the Corporation Counsel will review each proposed modification or removal of a deed restriction recommended for approval by DCAS before the proposed modification or removal is presented to the public and to the Mayor. The committee shall also determine the amount of any consideration required in connection with such proposed modification or removal. Requests for modification or removal presented to the committee for approval must also be approved by the Mayor to take effect. In addition, proposed modifications or removals of deed restrictions submitted to the Department of Housing Preservation and Development will be reviewed for approval by the Mayor or a Deputy Mayor who oversees housing and/or economic development.

The Mayor's Office's authority for this rule is found in Section 1043 of the New York City Charter.

Matter underlined is new.

Matter in brackets [ ] is to be deleted.

"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. Title 43 of the Rules of the City of New York is amended by adding a new Chapter 16, to read as follows:

### **Chapter 16**

### **MODIFICATION OR REMOVAL OF DEED RESTRICTIONS**

**§ 16-01 Definitions.** As used in this chapter, the following terms have the following meanings:

“Deed restriction.” The term “deed restriction” means a covenant set forth in a deed that limits the use of property and is imposed by the City of New York when such property is sold or otherwise disposed of by the City of New York.

**§ 16-02 Recommendations by the Department of Citywide Administrative Services for Modification or Removal of Deed Restrictions.**

- a. Committee. There shall be a committee (“the Committee”) to review preliminary recommendations by the Department of Citywide Administrative Services (“DCAS”) to modify or remove deed restrictions. The Committee shall consist of four members, who shall be:
- i. the First Deputy Mayor or the official occupying any successor position, or his or her designee;
  - ii. the Deputy Mayor for Housing and Economic Development or the official occupying any successor position, or his or her designee;
  - iii. the Corporation Counsel, or his or her designee; and
  - iv. the Director of the Office of Management and Budget, or his or her designee.
- b. DCAS Preliminary Recommendation. When submitting to the Committee a preliminary recommendation to approve a modification or removal of a deed restriction pursuant to Section 15-04(d) of Title 55 of the Rules of the City of New York, DCAS shall include the following materials:
- i. The land use analysis conducted pursuant to Section 15-04(a) of Title 55 of the Rules of the City of New York;
  - ii. Any findings from the due diligence review conducted pursuant to Section 15-04(a) of Title 55 of the Rules of the City of New York;
  - iii. A summary of the analysis conducted by DCAS in consultation with other City agencies pursuant to Section 15-04(b)(i) of Title 55 of the Rules of the City of New York;
  - iv. Any appraisals obtained pursuant to Section 15-04(c) of Title 55 of the Rules of the City of New York;
  - v. Documents provided by the property owner to DCAS; and
  - vi. Any other relevant information.
- c. Committee Approval. The Committee shall review the preliminary recommendation and accompanying materials submitted by DCAS and determine whether to approve such recommendation. In determining whether to approve, the Committee must consider:
- i. How modifying or removing the deed restriction would affect the property’s surrounding community;
  - ii. Any input received from the community board of the community district in which the property is located, the council member representing the council district in which the property is located, or the borough president representing the borough in which the property is located;
  - iii. Other possible development opportunities for the property;
  - iv. Whether modifying rather than removing the deed restriction could better achieve the City’s goals;

- v. The feasibility of any proposed development of the property in connection with the modification or removal of the deed restriction, if applicable; and
  - vi. The risks and benefits of any proposed sale of the property following a modification or removal of the deed restriction, if applicable.
- d. Consideration. The Committee shall approve or modify the consideration amount required, if any, for the modification or removal of the deed restriction, as proposed by DCAS. Any modification of the consideration amount by the Committee shall be based on the appraisals provided by DCAS and in accordance with the calculation method developed by DCAS pursuant to Section 15-04(c) of Title 55 of the Rules of the City of New York.
- e. Notification. The Committee shall provide a written determination of its approval or denial of DCAS's preliminary recommendation, including the Committee's determination regarding any required consideration, to DCAS.
- f. Mayoral Approval. Following the receipt of DCAS's final written recommendation for approval of a requested modification or removal of a deed restriction, the Mayor of the City of New York, or the Mayor's designee, shall approve or deny such request. Such request shall only be approved upon a determination that the proposed modification or removal is appropriate and furthers the best interests of the City of New York. DCAS may not modify or remove any deed restriction without the approval of the Mayor, or the Mayor's designee.

**§ 16-03 Proposed Modification or Removal of Deed Restrictions by the Department of Housing Preservation and Development.**

The Department of Housing Preservation and Development may not modify or remove any deed restriction without the approval of the Mayor or the Deputy Mayor for Housing and Economic Development or the official occupying any successor position, or his or her designee.

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

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Procedure for Modification of Deed Restrictions**

**REFERENCE NUMBER: MO-1**

**RULEMAKING AGENCY: Office of the Mayor**

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

September 26, 2016  
Date

**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: Procedure for Modification of Deed Restrictions**

**REFERENCE NUMBER: 2016 RG 073**

**RULEMAKING AGENCY: Office of the Mayor**

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: September 26, 2016