

## MAYOR'S OFFICE OF SPECIAL ENFORCEMENT

### Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The Mayor's Office of Special Enforcement is proposing a rule to implement chapter 396 of the Laws of 2016, which prohibits advertising that promotes the use of dwelling units in Class A multiple dwellings for purposes other than permanent residence.

**When and where is the hearing?** The Mayor's Office of Special Enforcement will hold a public hearing on the proposed rule. The public hearing will take place at 11 a.m. on December 19, 2016. The hearing will be in Spector Hall on the ground level of 22 Reade St, New York, NY 10007.

This location has the following accessibility option(s) available: The building is wheelchair accessible. See below for information on requesting additional accessibility.

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

- **Website.** You can submit comments to the Mayor's Office of Special Enforcement through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [oserules@cityhall.nyc.gov](mailto:oserules@cityhall.nyc.gov), with the subject line of "comment on proposed rule".
- **Mail.** You can mail comments to: Executive Director Christian Klossner at: The Mayor's Office of Special Enforcement, 1 Centre Street, Room 1012N, New York, NY 10007.
- **Fax.** You can fax comments to the Mayor's Office of Special Enforcement, The Mayor's Office of Special Enforcement, RE: proposed rule, at 212 788-6834.
- **By speaking at the 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 646-576-3533. You can also sign up in the hearing room before the hearing begins on December 19, 2016. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Written comments on this proposed rule must be submitted to the Mayor's Office of Special Enforcement no later than close of business on December 19, 2016.

**Do you need assistance to participate in the hearing?** You must tell the Mayor's Office of Special Enforcement 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 646-576-3533. You must tell us by December 13, 2016. Late requests can be made but may not be honored depending on availability of assistance.

**Can I review the comments made on the proposed rule?** 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 a summary of oral comments concerning the proposed rule will be available to the public at The Mayor's Office of Special Enforcement, 1 Centre Street, Room 1012N, New York, NY 10007.

**What authorizes the Mayor's Office of Special Enforcement to make this rule?** Section 1043 of the New York City Charter and chapter 396 of the Laws of 2016 (section 27-287.1 of the Administrative Code of the City of New York) authorize the Mayor's Office of Special Enforcement to make this proposed rule. This proposed rule was not included in the regulatory agenda of the Mayor's Office for this Fiscal Year because it was not contemplated when the Mayor's Office published the agenda.

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

**What rules govern the rulemaking process?** The Mayor's Office of Special Enforcement 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**

Chapter 396 of the Laws of 2016, enacted on October 21, 2016, establishes two new provisions of law: section 212 of the New York State Multiple Dwellings Law, and section 27-287.1 of the Administrative Code of the City of New York (the City's Building Code). Both provisions prohibit the advertising of dwelling units in a Class A multiple dwelling, as defined in the Multiple Dwelling Law, for any purpose or use other than permanent residential occupancy. This prohibition applies to all forms of advertising, including electronic and printed materials, television, and radio. The statute specifies that it is to be enforced in New York City by the Mayor's Office of Special Enforcement.

The purpose of this proposed rule is to implement chapter 396 of the Laws of 2016 by specifying the penalties for violation of the statutory prohibition. Persons found to have violated the prohibition will be fined \$1,000 for the first violation, \$5,000 for the second violation and \$7,500 for the third and subsequent violations. Like all violations of the City's Building Code, notices of violation relating to the new prohibition will be returnable at the Environmental Control Board.

The authority of the Mayor's Office of Special Enforcement for these rules is found in section 1043 of the New York City Charter and section 27-287.1 of the New York City Administrative Code.

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.

**Title 43 of the Rules of the City of New York is amended by adding a new chapter 15, to read as follows:**

### **CHAPTER 15**

#### **UNLAWFUL ADVERTISEMENT FOR CERTAIN OCCUPANCIES**

<b>§15-01</b>	<b>Certain Advertising Prohibited</b>
<b>§15-02</b>	<b>Definition</b>
<b>§15-03</b>	<b>Penalties</b>
<b>§15-04</b>	<b>Adjudication</b>

§15-01 Certain Advertising Prohibited.

It is unlawful to advertise occupancy and use of dwelling units in a class A multiple dwelling for occupancy that would violate subdivision eight of section four of the New York State Multiple Dwelling Law, defining a "Class A" multiple dwelling as a multiple dwelling that is occupied for permanent residence purposes.

§15-02 Definition.

For purposes of this chapter, the term "advertise" means any form of communication, promotion or solicitation, including but not limited to direct mail, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites, text messages or similar displays, intended or used to induce, encourage or persuade the public to enter into a contract for goods and/or services.

§15-03 Recommended Penalties.

Any person found to have violated the provisions of section 15-01 will be liable for a civil penalty of \$1,000 for the first violation, \$5,000 for the second violation and \$7,500 for the third and subsequent violations.

§15-04 Adjudication

Violations of section 15-01 will be adjudicated by the Environmental Control Board.

**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: Prohibited Advertising of Certain Dwelling Units**

**REFERENCE NUMBER: 2016 RG 096**

**RULEMAKING AGENCY: Mayor's Office of Special Enforcement**

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: November 16, 2016

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: Prohibited Advertising of Certain Dwelling Units**

**REFERENCE NUMBER: MO-2**

**RULEMAKING AGENCY: Mayor's Office of Special Enforcement**

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 rule violations arise from completed events, which makes a cure period impracticable under the circumstances.

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

November 16, 2016  
Date