

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

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

**What are we proposing?** The Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) proposes to repeal its Landmarks Preservation Penalty Schedule rule. This schedule is found in Section 3-114 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY). The Landmarks Preservation Penalty Schedule rule contains penalties for summonses issued by the Landmarks Preservation Commission (LPC) for violations of Title 25 of the New York City Administrative Code. LPC is proposing a companion rule adding the Landmarks Preservation Penalty Schedule to its rules.

**When and where is the Hearing?** OATH ECB will hold a public hearing on the proposed rule. The public hearing will take place from **10:00 a.m. through 12:00 p.m. on March 28, 2018**. The hearing will be in the OATH 10<sup>th</sup> Floor Conference Room located at 66 John Street, 10th Floor, New York, NY 10038.

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

- **Website.** You can submit comments to OATH ECB through the NYC rules website at <http://rules.cityofnewyork.us/>.
- **Email.** You can email written comments to Rules\_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to OATH, Attention: Simone Salloum, Senior Counsel, 100 Church Street, 12th Floor, New York, NY 10007.
- **Fax.** You can fax written comments to OATH, Attention: Simone Salloum, Senior Counsel, at (212) 361-1900.
- **Hearing.** You can speak 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 Elizabeth Nolan at (212) 436-0708, or you can also sign up in the hearing room before the hearing begins on **March 28, 2018**. You can speak for up to three (3) minutes.

**Is there a deadline to submit written comments?** You may submit written comments up to **5:00 p.m. on March 28, 2018**.

**What if I need assistance to participate in the Hearing?** You must tell us 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 call Elizabeth Nolan by telephone at (212) 436-0708 to request a reasonable accommodation. Please tell us by March 21, 2018.

This location has the following accessibility option(s) available: Wheelchair Accessible.

**Can I review the comments made on the proposed rule?** You can review the comments that have been submitted online by visiting the NYC rules website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at OATH, 66 John Street, 10<sup>th</sup> Floor, New York, NY 10038.

**What authorizes OATH ECB to make this rule?** Section 1049-a of the City Charter authorizes OATH ECB to make this proposed rule. This proposed rule is included in OATH's regulatory agenda for this Fiscal Year.

**Where can I find OATH ECB's rules?** OATH ECB's rules are in Title 48 of the Rules of the City of New York.

**What laws govern the rulemaking process?** OATH ECB must meet the requirements of Section 1043(b) of the City Charter when creating or changing rules. This notice is made according to the requirements of Sections 1043(b) and 1049-a of the City Charter.

### **Statement of Basis and Purpose of Proposed Rule**

The Office of Administrative Trials and Hearings' Environmental Control Board (OATH ECB) is proposing to repeal its Landmarks Preservation Penalty Schedule rule. This schedule is currently 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 New York City Administrative Code. At the same time, the Landmarks Preservation Commission is proposing a comprehensive set of revisions to its own rules, which will include the addition of a penalty schedule, proposed to be located in an Appendix A of Chapter 11 of Title 63 of the RCNY.

The context for this proposed 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 proposed 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 proposed 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.**

**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:** Proposed Repeal of Landmarks Preservation Penalty Schedule

**REFERENCE NUMBER:** 2018 RG 006

**RULEMAKING AGENCY:** Office of Administrative Trials and Hearings

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, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

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

**RULE TITLE: Proposed Repeal of Landmarks Preservation Penalty Schedule**

**REFERENCE NUMBER: OATH-ECB-77**

**RULEMAKING AGENCY: Office of Administrative Trials and Hearings**

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