

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 51 of title 28 of the Rules of the City of New York to exempt land that contained motels or tourist cabins from the replacement ratio requirements for buildings receiving tax benefits under New York State Real Property Tax Law section 421-a (16) (“Affordable New York Housing Program Rules”).

When and where is the Hearing? HPD will hold a public hearing on the proposed rules. The public hearing will take place from 11:00 am to 12:30 pm on Tuesday, July 24, 2018. The hearing will be in HPD’s offices at 100 Gold Street, 9th Floor, Room 9-P10, 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 July 24, 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 July 24, 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 July 13, 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 laws 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(16) of the Real Property Tax Law (RPTL) was enacted by the State Legislature in Chapter 20 of the Laws of 2015, as further amended by Chapter 59 of the Laws of 2017. RPTL Section 421-a(16) 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.

RPTL Section 421-a(16) provides that if the land on which an eligible site is located contained dwelling units three years prior to the commencement date that were thereafter demolished, removed or reconfigured, such eligible site must contain one affordable housing unit for each such dwelling unit. This provision was primarily intended to prevent the City from subsidizing the replacement of existing housing with new housing that did not provide substantially more units. However, it was not intended to prevent the replacement of transient housing such as motels or tourist cabins with permanent housing.

HPD's proposed rule would exempt motels and tourist cabins from the replacement ratio requirement. Thus, if there was a motel or tourist cabin on the eligible site three years prior to the commencement date, the motel rooms or tourist cabins that were demolished, removed or reconfigured would not each have to be replaced with an affordable housing unit. However, such eligible sites would still have to meet one of the affordability options under RPTL Section 421-a(16) (the six rental affordability options require between 25-30% affordable units ranging from 40% to 130% of Area Median Income) in order to qualify for this tax exemption benefit.

HPD's proposed rule does not exempt dwelling units designated as hotel rooms on the certificate occupancy from the replacement ratio requirement because the City Council has enacted legislation that imposes a temporary moratorium on the conversion of larger hotels to residential condominiums or other non-hotel uses. The Council's actions were premised on the impact such conversions have on the City's economy, particularly in relation to the loss of quality jobs. HPD does not want to further facilitate any such conversions by exempting hotel rooms from the replacement ratio requirement. Unlike hotels, motels and tourist cabins are not subject to this conversion moratorium.

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. Section 51-01 of chapter 51 of title 28 of the Rules of the City of New York is amended by adding a new definition in alphabetical order to read as follows:

Motel or Tourist Cabin. “Motel or Tourist Cabin” shall have the meaning set forth in Section 12-10 of the Zoning Resolution.

§ 2. Section 51-05 of chapter 51 of Title 28 of the Rules of the City of New York is amended to read as follows:

§ 51-05 [Hotel Prohibition] Hotels, Motels and Tourist Cabins.

a. Eligible Sites located on land that contained dwelling units designated as Motel rooms or as Tourist Cabins on the certificate of occupancy in effect three years prior to the Commencement Date shall not be subject to paragraph (i) of the Act with respect to any dwelling units in such Motel or Tourist Cabin that existed on such date and that were thereafter demolished, removed or reconfigured.

b. No Eligible Multiple Dwelling that is operated as a Hotel shall be eligible for Affordable New York Housing Program Benefits.

Commissioner Maria Torres-Springer
June 8, 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: Exemption of Motels and Tourist Cabins from 421-a Affordable Housing Requirement

REFERENCE NUMBER: 2018 RG 053

RULEMAKING AGENCY: Department of 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: May 30, 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: Exemption of Motels and Tourist Cabins from 421-a Affordable Housing Requirement

REFERENCE NUMBER: HPD-55

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

May 30, 2018
Date