

New York City Office of Long Term Planning and Sustainability

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The purpose of the proposed rule is to add a new Chapter 18 to Title 43 of the Rules of the City of New York, in order to establish criteria for the selection of priority green roof tax abatement districts.

When and where is the hearing? Office of Long Term Planning and Sustainability (OLTPS) will hold a public hearing on the proposed rule online. The public hearing will take place on January 25, 2021 at 5:30PM Eastern Standard Time.

Join through Internet:

- To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar. https://teams.microsoft.com/l/meetup-join/19%3ameeting_YmMxNGYwNmEtZjI5ZS00M2MyLWI3OGUtYWE0MzkwNjQxOTI1%40thread.v2/0?context=%7b%22Tid%22%3a%22f470a35f-0853-4633-aae3-ce4e8b5085a3%22%2c%22Oid%22%3a%2217d6baa8-9322-4616-b543-e6e8e40f13f0%22%7d Then follow the prompts.
- When joining the meeting, choose either “**Use computer for audio,**” or “**Phone Audio,**” for the audio portion of the public hearing. If you choose the “Phone Audio” option, the information needed to connect (**phone number, Access Code and Attendee ID**) will automatically be presented to you immediately **after** you join the Microsoft Teams meeting.
- If you have low bandwidth or inconsistent Internet connection, we suggest you use the “Phone Audio” option for the hearing. This will reduce the possibility of dropped audio and stutters.

Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 347-921-5612

Access code: 182434143#

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

- **Website.** You can submit comments to OLTPS through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to greenroofrules@sustainability.nyc.gov
- **Mail.** You can mail comments to Nate Kimball, Senior Policy Advisor, New York City Mayor's Office of Sustainability, 253 Broadway, 14th Floor, New York, NY 10007
- **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 emailing

greenroofrules@sustainability.nyc.gov by January 22, 2021 and including your name and affiliation. While you will be given an opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline for written comments is 1pm on January 26, 2021.

Do you need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the hearing other than the one(s) indicated above. You must tell us if you need a sign language interpreter. You can tell us by e-mailing at greenroofrules@sustainability.nyc.gov by January 15, 2021 or by calling 646-629-3146.

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/>.

What authorizes OLTPS to make this rule? Real Property Tax Law section 499-bbb(5) and section 8(f) of the New York City Charter (City Charter) authorize OLTPS to make this proposed rule.

Where can I find OLTPS's rules? OLTPS's rules are in Title 43 of the Rules of the City of New York.

What rules govern the rulemaking process? OLTPS 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

Under sections 499-aaa through 499-ccc of the New York State Real Property Tax Law (RTPL), the City is authorized to designate priority community districts that will receive an enhanced tax abatement of \$15 per square foot from July 19, 2019 to June 30, 2024 for the installation of a green roof. All other community districts will receive the standard \$5.23 per square foot tax abatement for the installation of a green roof. Pursuant to RPTL section 499-bbb(5), the City must select priority districts based on priority combined sewage overflow tributary areas, with priority for areas that “lack green space”.

Based on the criteria provided in RPTL section 499-bbb(5), the Office of Long Term Planning and Sustainability (OLTPS) is proposing a rule that will select priority districts by considering factors which identify areas that can benefit from green roofs the most. The focus is on the potential for urban heat island reduction that would result from green roof construction. New York City, like other urban areas, is more vulnerable to heat than rural and suburban areas. Due to the relative amount of dark, impervious surfaces, limited vegetation, and dense human activity, cities can be up to 22°F hotter than rural and suburban areas as part of a phenomenon known as the Urban Heat Island Effect (UHIE). The UHI effect leads to higher summertime peak energy demand, air conditioning costs, air pollution, and greenhouse gas (GHG) emissions. Variation in NYC's densely built environment—including the distribution of sparse vegetation, building types, and surface materials—results in disparate neighborhood-level heat risks. These physical risks overlap with social and health risk factors, resulting in disproportionate

effects borne by the most vulnerable residents of high poverty neighborhoods. The proposed rule's priority district selection criteria include criteria related to New York City Department of Health and Mental Hygiene's (DOHMH) analysis of heat-related mortality based on neighborhood characteristics, such as but not limited to green space, poverty, daytime summer surface temperature, and households reporting air conditioning. Selection criteria also include percent of land area within a Combined Sewer Overflow (CSO) Priority Area Designated by The New York City Department of Environmental Protection (DEP). Green roofs qualifying for the enhanced tax abatement must have a growing medium of 4 inches or more.

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.

Proposed Rule

Section 1. Title 43 of the rules of the city of New York is amended to add a new chapter 18 to read as follows:

Chapter 18: Green Roof Tax Abatement

§ 18-01 Scope of Rules

This chapter sets forth standards and procedures for designating priority community districts with properties that are eligible to receive an enhanced tax abatement for the installation of a green roof pursuant to sections 499-aaa, 499-bbb, and 499-ccc of the New York Real Property Tax Law (RTPL).

§ 18-02 Priority Community District Selection Criteria

(a) The mayor's office of long term planning and sustainability (OLTPS) will apply the following criteria in selecting priority community districts with properties that are eligible to receive an enhanced green roof tax abatement.

(1) Community districts will be evaluated based on the New York City Department of Health and Mental Hygiene's (DOHMH) analysis of heat-related mortality based on neighborhood characteristics, including but not limited to: (i) green space, (ii) poverty, (iii) daytime summer surface temperature, and (iv) households reporting air conditioning.

(2) OLTPS will also consider the percent of the land area of a community district that is within a Combined Sewer Overflow (CSO) Priority Area Designated by the New York City Department of Environmental Protection (DEP).

(b) A property in a priority community district must have green roofs with a growing medium of four inches or more to qualify for the enhanced tax green roof abatement.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Designation of Community Districts Eligible for Enhanced Tax Abatement for Green Roofs

REFERENCE NUMBER: 2020 RG 108

RULEMAKING AGENCY: Office of Long-Term Planning and Sustainability

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: December 18, 2020

**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: Designation of Community Districts Eligible for Enhanced Tax Abatement
for Green Roofs**

REFERENCE NUMBER: MO-5

RULEMAKING AGENCY: Mayor's Office of Long Term Planning and Sustainability

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

December 18, 2020
Date