

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”) proposes to add a new Chapter 58 to Title 28 of the Rules of the City of New York to implement the Housing Portal adopted by the City Council in Local Law 64 of 2018.

When and where is the Hearing? HPD will hold a public hearing on the proposed rule online. The public hearing will take place from 10:30 AM to 11:30 AM on Friday, June 4, 2021.

To participate in the public hearing, enter the Webex URL:

<https://nychpd.webex.com/nychpd/j.php?MTID=mbad66a7492dffec6a75ab006f2107ba2>

If prompted to provide a password or number, please enter the following:

Meeting Number: 129 997 3249

Password: June42021

You may also join the hearing via device audio or dial-in via phone.

To join by video system:

Dial 1299973249@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

To dial-in via phone, please use the following dial in number and participant code:

Phone Number: (646) 992-2010

Access Code: 129 997 3249

If you have low bandwidth or inconsistent internet connection, use the dial-in option for the hearing. This will reduce the possibility of dropped audio and stutters.

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 Anthony Jones, 100 Gold Street, Room 7-N5, New York, New York 10038.
- **Speaking at the 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) 863-5792 or by emailing jonesant@hpd.nyc.gov by June 3, 2021 at 5:00 PM. While you will be given the 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? All written comments must be submitted on or before June 4, 2021.

What if I need assistance to participate in the Hearing? You must tell HPD 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 (212) 863-5792 or e-mail at jonesant@hpd.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by May 28, 2021.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are deaf or hard of hearing and audio-only access for persons with vision impairments.

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 a recording of oral comments concerning the proposed rules will be available to the public.

What authorizes HPD to make this rule? Sections 1043 and 1802 of the City Charter and chapter 18 of title 26 of the Administrative Code of the City of New York authorize HPD to make these proposed rules. This proposed rule was included in HPD's regulatory agenda for this fiscal year.

Where can I find the HPD rules? The HPD rules are in Title 28 of the Rules of the City of New York.

What rules 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(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Local Law 64 of 2018 enacted a new chapter 18 of title 26 of the Administrative Code of the City of New York ("Act"). The Act requires HPD to create and maintain a "Housing Portal" website, through which information about "Affordable Units" must be submitted by owners and may be accessed by the public and through which such affordable housing units may be marketed. The Act provides that HPD shall promulgate certain rules related to the administration and enforcement of the Act. HPD is proposing a new chapter 58 of title 28 of the Rules of the City of New York ("Housing Portal Rules") to implement the Act.

The Act requires HPD to promulgate rules to establish the manner by which Affordable Unit information shall be provided to HPD and the manner by which a user of the Housing Portal verifies that such user is a lawful leaseholder or owner of an Affordable Unit. The Act also requires HPD to promulgate rules establishing the criteria for determining whether a complaint that an owner has violated the Act is credible and the manner by which HPD verifies the allegations in such a complaint. The Act also authorizes HPD to specify by rule additional categories of information that must be submitted concerning Affordable Units. Furthermore, the Act provides that HPD may establish the manner in which Affordable Units may be offered for rent or sale through the Housing Portal. The proposed rules would provide for all of the foregoing.

HPD's authority for these rules is found in sections 1043 and 1802 of the New York City Charter and chapter 18 of title 26 of the Administrative Code of the City of New York.

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. Title 28 of the Rules of the City of New York is amended by adding a new Chapter 58 to read as follows:

Chapter 58
HOUSING PORTAL

§ 58-01 Definitions. As used in this chapter, the following terms have the following meanings. Capitalized terms not specifically defined in this chapter have the meanings set forth in the Act.

Act. “Act” means chapter 18 of title 26 of the administrative code of the city of New York, as may be amended.

Credible Complaint. “Credible Complaint” means a complaint alleging that an owner has violated any provision of the Act with respect to an Affordable Unit that the Department has determined to be credible in accordance with subdivision a of section 58-05 of this chapter.

Unit Information. “Unit Information” shall mean any combination of Full Unit Information, Limited Unit Information, or Offered Unit Information.

§ 58-02 Marketing.

(a) An Affordable Unit that is offered for rent or sale through the Housing Portal must be offered for rent or sale exclusively through the Housing Portal.

(b) An Affordable Unit that is offered for rent or sale through the Housing Portal must be rented or sold pursuant to such marketing guidelines as may be published by the Department.

§ 58-03 Unit Information.

(a) In addition to the information specifically enumerated in the Act, the term “Full Unit Information” must also include the following information:

(1) the name of any lawful leaseholder or owner of such unit, or lawful owner of shares of a cooperative corporation that entitle the shareholder to occupancy of such unit under a proprietary lease;

(2) a statement as to the reason for turnover of such unit, if applicable; and

(3) the household size of such unit.

(b) Limited Unit Information shall not include any of the information required by subdivision a of this section.

(c) Full Unit Information and Offered Unit Information must be submitted under penalty of perjury with a sworn statement by the owner that such information is in compliance with all applicable regulatory agreements and legal requirements.

(d) Full Unit Information and Offered Unit Information must be submitted to the Department through the Housing Portal, or through such alternative software application that interfaces with the Housing Portal as the Department will designate.

(e) Full Unit Information must be submitted to the Department no less than annually.

(f) Offered Unit Information must be submitted immediately upon the owner becoming aware of such unit's anticipated vacancy date.

§ 58-04 Lawful leaseholder or owner verification. In order to verify that a Housing Portal user is the lawful leaseholder or owner of an Affordable Unit, or is a lawful owner of shares of a cooperative corporation that entitle the shareholder to occupancy of an Affordable Unit under a proprietary lease, such user must complete the designated form provided by the Department on the Housing Portal and attach a copy of the lease, deed, or any other substantiating documentation. The Department will exercise its discretion in determining whether a Housing Portal user has satisfied this verification requirement.

§ 58-05 Violations.

(a) Credibility determinations.

The Department will determine the credibility of complaints alleging that an owner has violated any provision of the Act with respect to an Affordable Unit. In determining the credibility of such complaints, the Department will consider any accompanying documentation attesting that an owner has violated any provision of the Act, corroborating testimony or any additional information the Department deems relevant.

(b) Verification of allegations.

(1) The Department will conduct an investigation of any Credible Complaint.

(2) Upon the completion of the investigation of a Credible Complaint, the Department will determine whether there is reasonable cause to believe a violation of the provisions of the Act or of this chapter have occurred.

Commissioner Louise Carroll
April 19, 2021

**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: Rules Governing Housing Portal for Affordable Units

REFERENCE NUMBER: 2021 RG 008

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: February 11, 2021

**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: Rules Governing Housing Portal for Affordable Units

REFERENCE NUMBER: HPD-79

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

February 11, 2021
Date