

**CITY OF NEW YORK
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 Chapters 10 and 53 of Title 28 of the Rules of the City of New York, concerning exceptions from the requirement for certifications of no harassment. The proposed amendments would except from that requirement certain work that (i) requires a permit from the Department of Buildings (DOB) and (ii) is required to be performed in a building in order to rescind a vacate order issued by HPD or DOB.

When and where is the hearing? HPD will hold a public hearing on the proposed rules. The public hearing will take place at 10:00 AM – 11:00 AM on September 2, 2021. To participate in the public hearing, enter the Webex URL <https://nychpd.webex.com/nychpd/j.php?MTID=mba7124178ab3b79c6627eed5a204e9>

If prompted to provide a password or number, please enter the following:
Meeting number: **179 611 9915** Password: **7zJSu8M2ddU**

You may also join via audio device or dial in via phone:

Join by video system:

Dial **1796119915@webex.com**

You can also dial **173.243.2.68** and enter your meeting number.

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

+1-646-992-2010 United States Toll (New York City)

+1-408-418-9388 United States Toll

Access code: 179 611 9915

Password if requested: 7zJSu8M2ddU

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 website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@hpd.nyc.gov.
- **Mail.** You can mail comments to Deputy Commissioner AnnMarie Santiago, Department of Housing Preservation and Development, 100 Gold Street, Room 601, New York, N.Y. 10038.
- **Fax.** You can fax comments to AnnMarie Santiago at 212 863-7010.

- **By 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 212 863-8602 or by emailing rifenm@hpd.nyc.gov before 5:00 PM on September 1, 2021. Although you can indicate during the hearing 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 comments? The deadline for submission of comments is September 2, 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 can tell us by mail at the address given above or by email at rifenm@hpd.nyc.gov. You may also tell us by telephone at 212 863-8602. We request advance notice so that we have sufficient time to arrange the accommodation. Please tell us by August 20, 2021. This hearing has the following accessibility options available: Simultaneous transcription for people who are deaf or hard of hearing and audio-only access.

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 <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 rules will be available to the public at the Office of Legal Affairs, 100 Gold Street, Fifth Floor, New York, N.Y. 10038.

What authorizes HPD to make these rules? Sections 1043 and 1802 of the New York City Charter (“City Charter”) and sections 27-2093, 28-107.3, 27-2093.1, and 28-505.3 of the Administrative Code of the City of New York authorize HPD to make these proposed rules. These rules were not included in HPD’s regulatory agenda for this Fiscal Year because they were not anticipated.

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

What laws govern the rulemaking process? HPD must comply with 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 Rules

The proposed rules amend Chapters 10 and 53 of Title 28. These chapters require owners of certain buildings to apply for a certification of no harassment in order to get a permit from the Department of Buildings (DOB) for covered categories of work. In administering this requirement, the Department of Housing Preservation and Development (HPD) has concluded that under certain circumstances, property owners to whom HPD or DOB has issued a vacate order should be able to expeditiously address the conditions for which the vacate order was issued, without having to secure a certification of no harassment first. Therefore, HPD has concluded that the requirement should not apply when a property owner seeks to perform the minimum repairs, replacement, modification, or partial demolition work required to address the conditions for rescission of a vacate order issued by HPD or DOB in a building. The proposed rule amendments provide this exception.

New material is underlined.
[Deleted material is bracketed]

Section 1. Section 10-02 of title 28 of the rules of the city of New York is amended to read as follows:

§10-02 Scope of Rule.

(a) The requirements of this chapter apply to certifications, exemptions, and waivers pursuant to Administrative Code §28-107.1 et seq., Administrative Code §27-2093, Zoning Resolution §96-110, Zoning Resolution §93-90, Zoning Resolution §98-70, Zoning Resolution §23-013, and any subsequently enacted provision of the Administrative Code or Zoning Resolution which authorizes HPD to make determinations concerning certifications, exemptions, or waivers.

(b)[(1)] With regard to single room occupancy multiple dwellings[,]:

(1) A [a] certification shall be required where mandated pursuant to Administrative Code §28-107.1 et seq. and Administrative Code §27-2093; provided, however, that a certification shall not be required pursuant to Administrative Code §28-107.3(4) for repairs, replacement, modification, or partial demolition work that is the minimum required to be performed to address conditions for rescission of a vacate order issued by HPD or DOB in a building.

(2) Except as otherwise provided in paragraph (1) of this subdivision, in [In] accordance with the authority of the Commissioner pursuant to Administrative Code §28-107.3(4) to prescribe by regulation other types of alteration work, a certification shall be required where the application and plans filed with DOB seek to:

- (i) increase or decrease the number of dwelling units;
- (ii) alter the layout, configuration or location of any portion of a dwelling unit;
- (iii) increase or decrease the number of residential kitchens or residential bathrooms;
- (iv) alter the layout, configuration or location of any portion of a residential kitchen or residential bathroom;
- (v) demolish or change the use or occupancy of any dwelling unit and/or any portion of the building serving the dwelling units.

[(2)] (3) Where the application and the accompanying plans submitted to DOB do not provide for any [such] change[s,] described in paragraph (2) of this subdivision, or where the application is for work described in paragraph (1) of this subdivision, a certification shall not be required pursuant to Administrative Code §28-107.3(4), but may be required pursuant to other provisions of Administrative Code §28-107.1 et seq. or pursuant to the Zoning Resolution.

(c) With regard to properties located in the Special Clinton District defined in Article IX, Chapter 6 of the Zoning Resolution (§96-00 et seq.), a certification shall be required where mandated pursuant to the terms of such Article and Zoning Resolution §96-110; provided, however, that subject to compliance with the applicable zoning provisions, a certification shall not be required for repairs, replacement, modification or partial demolition work that is the minimum required to be performed to address conditions for rescission of a vacate order issued by HPD or DOB in a building.

(d) With regard to multiple dwellings located in the anti-harassment area defined in Zoning Resolution §93-90 (Hudson Yards/Garment Center), a certification shall be required where

mandated pursuant to the terms of such section; provided, however, that subject to compliance with the applicable zoning regulations, a certification shall not be required for repairs, replacement, modification or partial demolition work that is the minimum required to be performed to address conditions for rescission of a vacate order issued by HPD or DOB in a building.

(e) With regard to multiple dwellings located in the anti-harassment area defined in Zoning Resolution §23-013 (Greenpoint-Williamsburg), a certification shall be required where mandated pursuant to the terms of such section and New York City Zoning Resolution §93-90; provided, however, that subject to compliance with the applicable zoning provisions, a certification shall not be required for repairs, replacement, modification or partial demolition work that is the minimum required to be performed to address conditions for rescission of a vacate order issued by HPD or DOB in a building.

(f) With regard to multiple dwellings located in the anti-harassment area defined in Zoning Resolution §98-70 (West Chelsea), a certification shall be required where mandated pursuant to the terms of such section and New York City Zoning Resolution §93-90; provided, however, that subject to compliance with the applicable zoning provisions, a certification shall not be required for repairs, replacement, modification or partial demolition work that is the minimum required to be performed to address conditions for rescission of a vacate order issued by HPD or DOB in a building.

§2. Section 53-01 of title 28 of the rules of the city of New York is amended by amending the definition of "Exceptions to Covered Categories of Work" to read as follows:

Exceptions to Covered Categories of Work. The term "Exceptions to Covered Categories of Work" means the following types of construction or other work that, notwithstanding the definition of Covered Categories of Work, do not require a building owner to obtain a Certification of no Harassment prior to approval of construction documents by the Department of Buildings:

- (1) Work solely for the purpose of either:
 - (a) making the public areas of a Pilot Program Building accessible to persons with disabilities without altering the configuration of any dwelling unit or rooming unit, or
 - (b) making the interior or the entrance to a dwelling unit or a rooming unit accessible to persons with disabilities.
- (2) Repairs, demolition, or any other work performed by a city agency or by a contractor pursuant to a contract with a city agency.
- (3) Repairs, demolition, or any other work performed by an owner who has entered into a regulatory agreement for such building with the Department.
- (4) Demolition of a building performed pursuant to a declaration of an immediate emergency or emergency demolition order issued by the Department of Buildings.
- (5) Work performed in a building that has an administrator currently appointed pursuant to article seven-a of the real property actions and proceedings law.
- (6) Work performed in a building that has been transferred to a third party transferee or that has been transferred by such third party transferee to a subsequent transferee approved by the Department pursuant to an in rem foreclosure judgment under the Third Party Transfer program, authorized under chapter 3 of title 11 of the Administrative Code and the rules set forth in 28 RCNY chapter 8.

(7) Repairs, replacement, modification, or partial demolition work that is the minimum required to be performed to address conditions for rescission of a vacate order issued by the Department or the Department of Buildings in a building.

**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: Amendment of Rules Relating to Certification of No Harrassment

REFERENCE NUMBER: 2020 RG 058

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: June 24, 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: Amendment of Rules Relating to Certification of No Harrassment

REFERENCE NUMBER: HPD-75

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

June 24, 2021
Date