

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) is proposing to add a new rule to implement Section 1043(g) of the New York City Charter, which permits any person to petition a city agency to consider the adoption of any rule and requires each agency to have rules creating a procedure for such petitions.

Due to the current health emergency, the public hearing for this rule is being scheduled as a virtual hearing, which may be accessed according to the information given below in this Notice.

- **When and where is the hearing?** DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11am on 11/15/21.
- 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. Then follow the prompts.

<https://buildings.webex.com/buildings/j.php?MTID=m532987fb3ab0cb060b07b260f8a47bae>

When prompted, enter the following meeting password: 10007

When joining the meeting choose either “**Use computer for audio**” or “**Call in**” for the audio portion of the public hearing. If you choose the “Call in” option, the information needed to connect (**phone number, Access Code and Attendee ID**) will automatically be presented to you immediately **after** you join the Webex meeting.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the “Call-in” 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: 646-992-2010

Access code: 2304 955 9835

Password (if requested): 10007

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

- **Website.** You can submit comments to the DOB through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Fax.** You can fax comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.

- **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 by emailing dobrules@buildings.nyc.gov by 11/8/21 and including your name and affiliation. 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 comments? Yes, you must submit comments by 11/15/21.

What if I need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 11/1/21.

This location has the following accessibility option(s) available: Simultaneous transcription and an ASL interpreter for people who are hearing impaired, and audio only access for those who are visually impaired.

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 DOB to make this rule? Sections 643 and 1043(a) of the City Charter authorize DOB to make this proposed rule.

Where can I find DOB's rules? DOB's rules are in Title 1 of the Rules of the City of New York.

What rules govern the rulemaking process? DOB 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

The Department of Buildings ("DOB") is proposing to add a new rule to implement Section 1043(g) of the New York City Charter, which permits any person to petition a city agency to consider the adoption of any rule and requires each agency to have rules creating a procedure for such petitions.

Specifically, this proposed rule would set forth the procedures that petitioners must follow in petitioning DOB to consider a new rule. This proposed rule would also set forth the procedure DOB must follow in considering and responding to petitions. Additionally, this rule would require DOB to deny or approve petitions within 60 days and would set forth a procedure for rejecting or adopting petitions.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter.

New material is underlined.

"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.

Subchapter E of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 105-06 to read as follows:

§105-06 Petitions for Rulemaking.

(a) Definitions.

- (1) Person. "Person" means a natural person or a business entity, including but not limited to a corporation, trust, estate, partnership, cooperative, association, firm, club or society.
- (2) Petition. "Petition" means a written request or application for the Department to adopt a Rule.
- (3) Petitioner. "Petitioner" means the person who files a Petition.
- (4) Rule. "Rule" has the meaning set forth in § 1041 of the City Administrative Procedure Act.

(b) Procedures for Submitting Petitions.

- (1) Any Person may petition the Department to consider the adoption of a Rule. The Petition may be denied if it fails to include the following information:
 - (i) The Rule to be considered, with proposed language for adoption;
 - (ii) Petitioner's arguments in support of adoption of the Rule;
 - (iii) Petitioner's proposal for the time period the Rule should be in effect, if applicable;
 - (iv) Responses to any questions posed on a form provided by the Department for such Petitions;
 - (v) The name, address, telephone number, and email address of the Petitioner or his or her authorized representative;
 - (vi) The signature of Petitioner or his or her representative.
- (2) Any change in the name, address or telephone number of the Petitioner or his or her authorized representative must be reported to the Department.
- (3) All Petitions should be typewritten, if possible, but handwritten Petitions will be accepted provided they are legible.
- (4) Petitions must be submitted via dobrules@buildings.nyc.gov or by mailing the Petition to the Department of Buildings, Regulatory Matters Unit, Office of the General Counsel, 280 Broadway, 7th Fl., New York, NY 10007.

(c) Procedures for Consideration of and Responses to Petitions. If a Petition is submitted in proper form, the Department will deny or approve the Petition within 60 days from the date it was received. The Department will either deny such Petition in a written statement or state in writing the Department's intention to initiate rulemaking by a specified date. The Department is not required to grant the entirety of a Petition and is not bound by the language proposed by Petitioner but may amend or modify such proposed language at the Department's discretion.

**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: Petitions for Rulemaking

REFERENCE NUMBER: 2021 RG 011

RULEMAKING AGENCY: Department of Buildings

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: September 10, 2011

**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: Petitions for Rulemaking

REFERENCE NUMBER: DOB-137

RULEMAKING AGENCY: Department of Buildings

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

September 10, 2021
Date