

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 amend its rules to clarify the process regarding the tax abatement a property can receive for the installation of a green roof.

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 12/2/24.

- Join through Internet – Desktop app:

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 to either continue using the browser or download/open the Teams desktop app.

<https://events.gcc.teams.microsoft.com/event/3a97c353-987c-4a39-ab68-bcd2b7ae0198@32f56fc7-5f81-4e22-a95b-15da66513bef>

Enter your name when prompted and click the **“Join now”** button. If you don't have computer audio or prefer to phone in for audio, select **“Phone audio”** under **“Other join options”** then click the **“Join now”** button. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins. If you are using phone audio then follow the dial-in instructions when prompted.

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 through Internet - Smartphone app:

To join using the Microsoft Teams app on your smartphone, click on the following URL link from your phone to automatically open the Teams app. Note that the Microsoft Teams app must already be installed on your smartphone. It is available for free both in the Apple Store and Google Play.

<https://events.gcc.teams.microsoft.com/event/3a97c353-987c-4a39-ab68-bcd2b7ae0198@32f56fc7-5f81-4e22-a95b-15da66513bef>

When prompted select “Join meeting”. Type your name and then select “Join meeting” again. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

Alternatively, open the Teams app and select “Join a meeting”. Signing in with an account is not required. Type your name, the following Meeting ID and Passcode, then select “Join meeting”.

Meeting ID: 278 561 177 537

Passcode: 2N8rgE (Code is case sensitive)

- Join via phone only:

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

Phone: 646-893-7101

Phone Conference ID: 523 262 06#

You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

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.
- **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 by emailing dobrules@buildings.nyc.gov by 11/25/24 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. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes, you must submit comments by 12/2/24.

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 11/18/24.

This location has the following accessibility option(s) available: Simultaneous transcription 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/>. Copies of all comments submitted online, copies of all written comments and a summary of oral comments

concerning the proposed rule will be available to the public at the Office of the General Counsel and may be requested by email at dobrates@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter and Title 4-B of Article 4 of the Real Property Tax Law of New York State authorize DOB to make this proposed rule. This proposed rule was not included in DOB’s regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

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

Title 4-B of Article 4 of the New York State Real Property Tax Law allows a property owner in a city of 1,000,000 or more people to receive a property tax abatement for the installation of a green roof on a Real Property Class 1, 2 or 4 building or site.

DOB is proposing to amend Section 105-01 of its rules to clarify the process for the installation of a green roof, delete obsolete provisions, update the names of certain documents to match current practice, and make minor plain language edits.

DOB’s authority for this rule is found in sections 643 and 1043(a) of the New York City Charter and Title 4-B of Article 4 of the Real Property Tax Law of New York State.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“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 105-01 of subchapter E of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

§ 105-01 Requirements for the approval of a property tax abatement application for the installation of a green roof.

(a) Purpose and applicability. This section establishes the procedure for a property tax abatement application for a green roof as defined in Title 4-B of Article 4 of the New York State Real Property Tax Law (“Title 4-B”). A green roof shall not be eligible for a tax abatement pursuant to Title 4-B if the construction of any of the required elements of the green roof set forth in Title 4-

B § 499-aaa(10), except § 499-aaa(10)(a) [and § 499-aaa(10)(c)], was commenced prior to August 5, 2008.

(b) Designated agency. For purposes of Title 4-B, the designated agency [shall be] is the Department of Buildings (“Department”).

(c) Definitions. The terms used in this section [shall] have the same meanings as the terms defined in Title 4-B § 499-aaa. In addition, for purposes of this section, the following terms [shall] have the following meanings:

[(1) Alteration application. An application [for the alteration of a building that is filed with the Department in accordance with Chapter 1 of Title 28 of the Administrative Code.]

[(2)] (1) Applicant for property tax abatement. The applicant as defined in Title 4-B § 499-aaa, including such applicant’s successors-in-interest.

[(3)] (2) Applicant of record. The [architect or engineer] registered design professional who files the [alteration] application for installation with the Department.

(3) Application for installation. Construction documents filed with the Department for the installation of green roof space.

(d) Codes. All work relating to the installation of a green roof [shall] must comply with the requirements of the New York City Construction Codes (“Construction Codes”) contained in Title 28 of the Administrative Code (“Title 28”) [or the 1968 Building Code, as provided in Administrative Code § 101.4.3]. All such work [shall] must also comply with the requirements of the New York City Electrical Code, the New York City Fire Code, the New York City Energy Conservation [Construction] Code [of New York State], the New York City Zoning Resolution and other applicable laws and rules.

(e) [Procedure: Alteration application] Application for installation of a green roof.

(1) Filing. [The Department shall not accept a] All property tax abatement [application unless the applicant of record shall have first filed] applications must be filed with an [alteration] application [that is professionally certified and agreed to have] for installation that includes an acknowledgement by the applicant of record that the final inspection must be performed by [an architect or engineer the final inspection on behalf of the Department] an approved agency in accordance with Administrative Code § 28-116.2.4.2. [This filing is required regardless of whether the building is new or existing and regardless of whether a prior new building or alteration application for work beyond but including installation of the green roof was filed prior to the effective date of this rule.]

(i) At the time of submission of the [alteration] application for installation, the applicant of record [shall] must indicate on forms furnished by the Department that [the alteration] such application will be the subject of a property tax abatement

application[; the Department shall then record such indication as a required item for that alteration application].

(ii) [No work unrelated to the property tax abatement shall be included in the alteration application. Such] The application [shall] for installation must include, but not be limited to, the following construction documents and information:

(A) Roof plan showing eligible rooftop space and green roof space[,] and providing the net square footage of each. The plan [shall] must demonstrate that the green roof does not obstruct [firefighting] access for both firefighting, in accordance with Section 504 of the New York City Fire Code, and maintenance of all roof equipment [maintenance access].

(B) [Details] Proof, including but not limited to drawings, details and documentation, demonstrating that the green roof meets [all requirements] the definition set forth in Title 4-B § 499-aaa(10), as well as the requirements in applicable provisions of the codes listed in subdivision (d) of this section. [Details shall] Proof must indicate the depth of the growth medium.

(C) Design and construction drawings reflecting construction work necessary to enable the building, its structure, the roof structure with the green roof, together with any other existing or added rooftop structures and/or equipment, the roof covering and roof drainage systems to comply with the codes enumerated in subdivision (d) of this section and other requirements set forth in this section and/or Title 4-B. The weight of the green roof shall be considered a superimposed dead load. The design shall consider the green roof in saturated condition.

(D) The construction documents required by clauses (A), (B) and (C) of this subparagraph shall not be necessary for an application for a green roof installation of a depth of four inches or less where a structural analysis of the existing building has been performed establishing that such building can, without modification, sustain the load of the green roof in a fully saturated condition in a manner that complies with the codes enumerated in subdivision (d) of this section, provided the applicant of record certifies that the construction work reflected in the [alteration application] application for installation complies with such codes and other requirements set forth in this section and Title 4-B and that the analyses reflected in the requirements of clauses (A), (B) and (C) of this subparagraph have been performed. In making such certifications, the weight of the green roof shall be considered a superimposed dead load. The design shall consider the green roof in saturated condition. Where, in accordance with the provisions of this subdivision, construction documents required by clauses (A), (B) and (C) of this subparagraph are not submitted to the Department, the applicant of

record shall perform the inspections for the installation required by [subdivisions] paragraph (4) of subdivision (e)[(4)] and paragraph (1) of subdivision (f)[(1)] of this section.

[(E) Technical Report(s) identifying those responsible for any special, progress and final inspections required by the New York City Construction Codes contained in Title 28.]

(2) Document retention. Construction documents required by clauses (A), (B) and (C) of subparagraph (ii) of paragraph (1) of this [section] subdivision, including structural analyses and calculations, regardless of whether submitted to the Department [shall], must be retained for six years by the applicant of record [in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents] and [shall] must be made available upon request of the Department.

(3) [Permit] Permits and technical reports. All required permits [shall] must be obtained, including any required electrical permits. [Application for required electrical permits shall be made by a New York City licensed electrician. Electrical permit applications that do not indicate that the application is an “S Sustainable Energy Install” application and/or omit the application number for the alteration application will be cause for rejecting the property tax abatement application.] Technical Report(s) identifying those responsible for any special, progress and final inspections required by the Construction Codes must be filed with the Department.

(4) Inspections. Inspections shall be performed in accordance with Article 116 of Title 28 and Title 4-B after the completion and sign-off of any required electrical work. Final inspection shall be performed in accordance with Administrative Code § 28-116.2.4.2.

(5) [Construction] Job sign-off. Upon completion of work, the applicant of record [shall] must submit to the Department completed Technical Reports, including final inspection, and a request for job sign-off pursuant to Administrative Code § 28-116.4. The request [shall] must be accompanied by a completed property tax abatement application. If the property tax abatement application is not submitted together with and at the same time as the request for [construction] job sign-off, the property tax abatement application shall be denied, and the Department shall not further review or process the property tax abatement application.

[(6) The Department shall register receipt of the property tax abatement application as a required item in its records.

(7) The date of filing of the property tax abatement application shall be the date of submission of construction sign-off documents and the application for property tax abatement as described in subdivision (e)(5) of this section and as recorded by the Department.]

(f) [Procedure:] Property tax abatement application.

(1) [Professional] Title 4-B certification. [An architect or engineer shall] A registered design professional must inspect the completed green roof and [shall] must certify (1) its compliance with the definitions and requirements of Title 4-B, including but not limited to Sections 499-aaa(10) and 499-ccc of Title 4-B and the designation of eligible rooftop space on the drawings, and (2) the square footage of green roof space eligible for tax abatement pursuant to Title 4-B. In making such certification, the [architect or engineer] registered design professional may rely on the report(s) of a New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute with respect to whether the green roof's vegetation layer complies with Title 4-B § 499-aaa(10).

(2) Maintenance plan. [An architect, engineer] A registered design professional, New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute [shall] must prepare a maintenance plan for the green roof. Such maintenance plan shall be sufficient to enable the applicant for property tax abatement to maintain the green roof during the compliance period and for a minimum of three (3) years thereafter in such a way that it continuously constitutes a green roof in accordance with Title 4-B and this section.

(i) The maintenance plan [shall] must require at least semi-annual maintenance inspections of the condition of the roof and plants, contingency plans for irrigation during dry or drought conditions when necessary to ensure the survival of plants, contingency plans for replanting areas where plants have died, and any other corrective measures necessary to ensure that the green roof is maintained in accordance with Title 4-B and this section.

(ii) The maintenance plan [shall] must include monthly maintenance inspections to ensure that roof drains remain free of debris and in working condition.

(iii) The maintenance plan [shall] must identify any problems that may be encountered, describe corrective measures for each such problem and identify when and how often such corrective measures are required in order to maintain the green roof in continuous compliance.

(iv) The individual who prepared the maintenance plan [shall] must certify, either on the property tax abatement application, if such individual is [an architect or engineer] a registered design professional, or in a report provided to the [architect or engineer] registered design professional filing the property tax abatement application, if such individual is a New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training

institute, that the maintenance plan complies with this section and that he or she has provided the maintenance plan to the applicant for property tax abatement. Such maintenance plan [shall] must be provided[, upon request,] to the Department upon request.

(3) [Property tax abatement application form and signatures] Application process. [An architect or engineer shall] A registered design professional must complete the property tax abatement application [form, sign and seal the form, and obtain the signature of the applicant for property tax abatement or such applicant's representative]. Such property tax abatement [form shall] application must be accompanied by a Title 4-B certification by the property tax abatement applicant or such applicant's representative that no construction of any required element of the green roof set forth in Title 4-B § 499-aaa(10), except § 499-aaa(10)(a) [or § 499-aaa(10)(c)], was commenced prior to August 5, 2008.

(4) [Delivery of property tax abatement application form to applicant of record. The architect or engineer who files the application for property tax abatement shall provide the completed property tax abatement application form, which shall include all certifications required by Title 4-B and this section, and any required electrical sign-off, to the applicant of record for submission to the Department at construction sign-off.] The completed property tax abatement application, together with the Technical Reports and request for [construction] job sign-off, must be filed with the Department by March 15 in order for the property tax abatement to take effect on July 1 of the same calendar year. If a property tax abatement application is filed after March 15, the property tax abatement to which such application relates shall not take effect until July 1 of the following calendar year.

(5) Upon receipt and acceptance of the completed property tax abatement application [form] and all applicable fees, the Department shall [record its acceptance and shall notify] forward any required documents to the Department of Finance for review and the issuance of the tax abatement.

(6) Filing date. The date of filing of the property tax abatement application shall be the date of submission of job sign-off documents and the application for property tax abatement.

(g) Compliance period.

(1) The applicant for property tax abatement [shall] must allow all [architects, engineers] registered design professionals, landscape architects and horticulturists involved in the installation and maintenance of the green roof and the Department to have access to the green roof and any related structures and equipment for inspection thereof at any time during the compliance period upon reasonable notice.

(2) Pursuant to Title 4-B § 499-ddd(1), within the fifteen (15) calendar days prior to the last day of the compliance period, the applicant of record, landscape architect or other [architect or engineer shall] registered design professional must inspect the green roof,

including without limitation its vegetation layer, to certify its continuing compliance with Title 4-B, this section and applicable provisions of law and rules, including but not limited to the codes enumerated in subdivision (d) of this section. Such inspecting professional [shall] must prepare an inspection report and [maintain it on file in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents for review by the] retain such report for six years. Such report must be made available to the Department upon request. If the inspecting professional finds that the green roof is not in compliance with Title 4-B, such inspecting professional [shall] must notify the Department [on such forms and in such manner as] in a form and manner prescribed by the Department.

(h) Revocation.

(1) Should the Department have reason to believe at any time during the compliance period that a condition described in Title 4-B § 499-eee(1) exists, the Department shall inspect or otherwise investigate the condition. If the findings of such inspection or investigation indicate that a condition described in Title 4-B § 499-eee(1) exists, the applicant for property tax abatement [shall] must pay the inspection and investigation expenses of the Department. The Department shall notify the applicant for property tax abatement of any findings that indicate that a condition described in Title 4-B § 499-eee(1) exists and provide such applicant with an opportunity to dispute the findings.

(2) No later than the ninetieth day after the last day of the compliance period, the Department shall notify the Department of Finance of any findings of noncompliance[,] and shall identify the period of noncompliance.

(3) The Department may declare an applicant for property tax abatement ineligible for future tax abatements in accordance with Title 4-B § 499-eee(4).

(i) Notification of the New York State Department of Education. In accordance with Title 4-B § 499-fff(3), should the Department determine that any [architect, engineer] registered design professional or landscape architect involved in the installation and maintenance of the green roof engaged in professional misconduct in making certifications required by Title 4-B or this rule, the Department shall so notify the New York State Department of Education. [Any misconduct in making such certifications may, following hearing by the Board of Regents, provide a basis for revocation of the professional's license or imposition of other penalty or sanction.]

[(j) Variation of requirements. For applications for property tax abatement filed for the tax year beginning July 1, 2009, the Department may vary any requirement relating to an administrative filing provision of this section with which the applicant was not otherwise required to comply pursuant to the New York City Construction Codes contained in Title 28 or Title 4-B at the time the work was performed.]

**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 Green Roof Tax Abatement

REFERENCE NUMBER: DOB-191

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

October 17, 2024
Date

**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 Green Roof Tax Abatement

REFERENCE NUMBER: 2024 RG 100

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
Senior Counsel

Date: October 16, 2024