

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Finance (“DOF”) is proposing to promulgate rules relating to the administration of a surcharge on certain real properties that do not serve as a primary residences.

When and where is the hearing? DOF will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 AM on July 9, 2026. The hearing will be conducted remotely through Microsoft Teams. To participate in the public hearing, enter the URL <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>. If prompted to provide the meeting ID, please enter: 282 996 296 447 563 ; If prompted for a passcode, please enter the following: v2tr6wT6. You can also participate in the hearing via telephone by calling 646-893-7101. The Phone conference ID: 894 579 507#

This location has the following accessibility option(s) available:
Audio-only access

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

- **Website.** You can submit comments to DOF through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to DOFRules@finance.nyc.gov.
- **Mail.** You can mail comments to NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, NY 10038, Attn: Timothy Byrne.
- **Fax.** You can fax written comments to NYC Department of Finance, Attn: Timothy Byrne, at (212) 748-6981.
- **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 calling Joan Best at (212) 748-7214. 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? The deadline to submit written comments is July 9, 2026.

What if I need assistance to participate in the hearing? You must contact DOF’s Office of Legal Affairs 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 by calling Joan Best at (212) 748-7214; or by email at bestj@finance.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please provide at least 72 hours’ notice prior to the hearing to ensure availability. This location has the following accessibility option(s) available: 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 at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a video recording of oral comments concerning the proposed rule will be available on the DOF website. Copies of these documents may also be reviewed at NYC Department of Finance, Legal Affairs Division, 375 Pearl Street, 30th Floor, New York, N.Y. 10038.

What authorizes DOF to make this rule? Sections 1043(a) and 1504 of the New York City Charter (“Charter”), as well as chapter 32 of title 11 of the New York City Administrative Code, authorize DOF to make this proposed rule. This proposed rule was not included in the DOF’s regulatory agenda for this Fiscal Year because the authorizing law was enacted after DOF published the agenda.

Where can I find DOF’s rules? The NYC Department of Finance’s rules are in Title 19 of the Rules of the City of New York. See the link below.
<https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-34211>

What laws govern the rulemaking process? NYC Department of Finance must meet the requirements of section 1043 of the Charter when creating or changing rules. This notice is made according to the requirements of section 1043 of the Charter.

Statement of Basis and Purpose of Proposed Rule

The New York City Department of Finance (“DOF”) is proposing the following rule change in accordance with the powers set forth in New York City Charter (“Charter”) §§ 1043(a) and 1504, as well as chapter 32 of title 11 of the New York City Administrative Code (“Administrative Code”).

On May 28, 2026, New York State adopted part HH of chapter 59 of the laws of 2026 into law, which enacted a new chapter 32 within title 11 of the Administrative Code, imposing a surcharge on certain residential properties that do not serve as the primary residence of the owners of such properties, their immediate family members, or a tenant. This surcharge, colloquially known as the pied-à-terre tax, imposes an additional tax that is calculated as the product of a surcharge rate established by statute and the market value of the applicable property, or with respect to a residential cooperative property, a residential cooperative dwelling unit. See Administrative Code §§ 11-3202 to 11-3204. This surcharge will only apply to qualifying class one residential properties, residential cooperative dwelling units and residential condominiums units that are not used as a primary residence by an owner or their immediate family members or a tenant and that have market values exceeding thresholds set forth in the Administrative Code. See Administrative Code § 11-3202.

Chapter 59 of 2026 requires DOF to administer and enforce this surcharge to the greatest extent practicable in the same manner used to administer and enforce real property taxes. The law also confers authority on DOF to promulgate rules governing certain aspects of the administration of the surcharge. Therefore, DOF is proposing the following rule change pursuant

to its powers set forth in Charter §§ 1043(a) and 1504, as well as Administrative Code §§ 11-3203(b) and 11-3205(i).

Section one of this proposed rule would add a new chapter 62 to title 19 of the Rules of the City of New York.

- Section 62-01 of this proposed chapter would add definitions to complement the definitions already set forth in Administrative Code § 11-3201, which would also apply to 19 RCNY ch. 62.
- Section 62-02 of this proposed chapter would specify that a property or shares of stock are “held” by a corporation, limited liability company (“LLC”) or partnership only where such corporation, LLC or partnership holds an undivided fee interest in such property or such shares of a cooperative corporation representing such dwelling unit in their entirety. See Administrative Code § 11-3201. To prevent gamesmanship among owners of real property, this provision would prevent individuals who hold a controlling interest in a business entity that holds only a fractional share of a property from receiving treatment as a “covered owner” for the purposes of application of the primary residency exemption set forth in Administrative Code § 11-3205.
- Section 62-03 of this proposed chapter would establish that, for the purposes of the exclusion from the surcharge pursuant to Administrative Code § 11-3201 for an unsold residential cooperative dwelling unit or residential condominium dwelling unit subject to an offering plan under General Business Law § 352-e, a sale would be deemed to have occurred at the time of conveyance of a deed, or transfer of an economic interest in, such residential condominium dwelling unit or residential cooperative dwelling unit. See Administrative Code § 11-3205(i)(1)(iv).
- Section 62-04 of this proposed chapter would establish a process for DOF to conduct audits related to the surcharge and impose penalties in certain circumstances where: (i) a certification or any documentation submitted to DOF contains inaccurate or misleading information that was material to the determination made regarding the imposition of such surcharge and was submitted negligently or in bad faith, or (ii) a condominium property has been divided into more than three units to avoid application of the surcharge and such division was made in bad faith. See Administrative Code § 3205(i)(2), (j); see *also* Charter § 1046. More specifically, this section would establish a process by which DOF:
 - may conduct audits to determine the amount of the surcharge owed by a covered property, including by collecting records and issuing subpoenas;
 - may notify a property owner of DOF’s imposition of a penalty against such owner and such owner’s right to appeal such penalty;
 - will conduct hearings regarding appeals of such penalties or delegate the duty to conduct such hearings to the Office of Administrative Trials and Hearings (OATH) pursuant to a memorandum of agreement with OATH; and
 - through the DOF Commissioner, make a final determination regarding the imposition of penalties after review of a recommendation from the presiding hearing officer.
- The hearings conducted by DOF would be conducted, upon a petitioner’s request, in writing by mail or a webform, in person, or through a simultaneous webcast. DOF would

impose a penalty equal to 50% of such surcharge for submission of a misleading or inaccurate certification or documentation that, if accepted by DOF, would result in exemption from the surcharge. (In such a circumstance, the surcharge amount would also be reimposed, as applicable.) Where such a misleading or inaccurate certification or documentation, if accepted, would result in a surcharge in a lower amount than the amount of the surcharge that would be calculated if the certification or documentation submitted did not include misleading or inaccurate information, such penalty would instead be equal to 300% of the difference in surcharge that would result if such certification or documentation were accepted, provided that such penalty does not exceed 50% of the surcharge that would have been calculated. This provision would promote compliance with the surcharge by increasing the potential cost of evasion by property owners while ensuring that such property owners are afforded an opportunity to challenge the imposition of such penalties.

- Section 62-05 of this proposed chapter would specify, pursuant to Administrative Code § 11-3205(i), that DOF's rules relating to adjustments to assessed value for purposes of real property taxes, the correction of certain clerical errors and errors of description, and refunds of real property taxes under 19 RCNY §§ 24, 37, and 53 apply to calculations of market value and imposition and payment of the surcharge. This proposed rule section would leverage existing safeguard mechanisms to ensure that the surcharge is applied fairly to property owners.
- Section 62-06 of this proposed chapter would establish the circumstances in which DOF, relying on records within its possession, will make an initial determination that a property constitutes a primary residence, thereby exempting such property from the surcharge pursuant to Administrative Code §§ 11-3202 and 11-3203. This section would establish a process by which DOF will provide notice of such determination to a property owner.
 - Property owners determined to be subject to, and not exempt from, such surcharge would be authorized to appeal directly to the City's Tax Commission in some circumstances, see Administrative Code § 11-3206, or would be authorized to appeal such determination of primary residency to DOF. This rule would establish the forms of proof that would allow such an owner to establish that such property is a primary residence of a covered owner, a primary residence of an immediate family member of a covered owner or the primary residence of a lessee or sub-lessee. To account for circumstances in which a property or shares of cooperative are held by a trust, LLC, corporation or partnership, this rule would also specify the types of documents that DOF will accept as proof that an individual is a member of a LLC, shareholder of a corporation, partner of a partnership or beneficiary of a trust. These provisions will establish a process by which DOF will efficiently review and approve documentation demonstrating that an owner or a shareholder of a cooperative corporation qualifies for an exemption based on a determination that a property serves as the primary residence of such owner or shareholder.
- Section 62-07 of this proposed chapter would establish, pursuant to the authority set forth in Administrative Code § 11-3205(i)(1)(iii), that the statement of account required pursuant to Administrative Code § 11-129 and the assessment roll required to be

published pursuant to chapter 58 of the Charter collectively constitute notice of the imposition of the surcharge, except that for the fiscal year beginning on July 1, 2026, the assessment roll and the tax bill for the second semiannual payment for such fiscal year constitute such notice.

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 Amendment

Section 1. Title 19 of the Rules of the City of New York is amended by adding a new chapter 62 to read as follows:

Chapter 62:

Surcharge on Property that Does Not Serve as a Primary Residence

§ 62-01 Definitions.

For the purposes of this chapter, the following terms have the following meanings. The terms not defined in this section have the meanings set forth in section 11-3201 of the administrative code, except as otherwise provided in this chapter.

Arm's length transaction. The term "arm's length transaction" means a lease or sub-lease for a covered property or a dwelling unit in a covered property entered into in good faith and for valuable consideration that reflects the fair market rental value of such covered property or dwelling unit between two informed and willing parties, where neither is under any compulsion to participate in the transaction and circumstances do not indicate a reasonable possibility that the lease or sub-lease was entered into for the purpose of avoiding imposition of the surcharge.

Commissioner. The term “commissioner” means the commissioner of the department or their designee.

Duly authorized representative. The term “duly authorized representative” means:

1. any person who files a power of attorney with the department on a form designated by the department that authorizes such person to act on behalf of an owner;
2. with respect to a partnership, a general partner of such partnership;
3. with respect to a limited liability company, a member of such company;
4. with respect to a corporation, an officer of such corporation; or

5. a trustee of a trust.

Economic interest. The term "economic interest" means shares of stock in a corporation that owns a covered property; the ownership of an interest or interests in a partnership, limited liability company or other unincorporated entity that owns a covered property; and the ownership of a beneficial interest or interests in a trust that owns a covered property.

OATH. The term "OATH" means the office of administrative trials and hearings.

Petitioner. The term "petitioner" means an owner of a covered property or a duly authorized representative in relation to a petition that was submitted timely pursuant to subdivision (d) of section 62-04 of this chapter.

§ 62-02 Multiple corporate owners of a covered property.

For purposes of chapter 32 of title 11 of the administrative code, real property classified as class one or a residential condominium dwelling unit is held, or shares of stock in a cooperative corporation entitling the holder of such shares to a propriety lease in a dwelling unit are held, by a partnership, corporation or limited liability company only where such partnership, corporation or limited liability company holds an undivided fee interest in such property or holds all such shares of stock. A partner or partners, shareholder or shareholders or member or members of such partnership, corporation, or limited liability company, respectively, who hold a majority interest in such partnership, corporation or limited liability company shall only be deemed to be a covered owner for the purposes of chapter 32 of title 11 of the administrative code if such partnership, corporation or limited liability company holds an undivided fee interest in such property or holds all such shares of stock.

§ 63-03 Sale or transfers of property.

For purposes of determining whether a residential condominium dwelling unit or residential cooperative dwelling unit constitutes excluded property, as defined in section 11-3201 of the administrative code, the date of sale of a residential condominium dwelling unit, or a transfer of an economic interest in a residential cooperative dwelling unit, is the date of:

(a) conveyance of a deed for such residential condominium dwelling unit; or

(b) transfer of an economic interest in such residential condominium dwelling unit or such residential cooperative dwelling unit.

§ 62-04 Investigations and penalties.

(a) Audit authority. The commissioner may conduct an audit for the purposes of determining the amount of the surcharge owed by a covered property, including any determination relating to primary residence, and any certification or documentation of primary residency submitted to the department, provided that any audit of such certification or documentation shall be conducted within six years of the submission of such certification or documentation.

(b) Collection of records and subpoena. A commissioner may:

1. compile any materials necessary to conduct such audit; and

2. subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to an audit initiated pursuant to subdivision (a) of this section.

(c) Transmission of notice of penalty. 1. The commissioner may transmit a notice of penalty to any owner of a covered property where the commissioner determines that: (i) any certification or documentation submitted to the department in connection with the imposition of the surcharge on a covered property contains inaccurate or misleading information that: (A) is material to the determination of the imposition of such surcharge, including a determination relating to primary residence; and (B) was submitted negligently or in bad faith; or (ii) a covered property that is a residential condominium unit has been divided into more than three units to avoid application of such surcharge and the owner of such covered property has made such division in bad faith. Such notice shall include the amount of such penalty pursuant to subdivision (g) of this section.

2. The commissioner shall transmit such notice to:

(i) the address of the owner of record of such covered property filed with the department, provided that in the case of a covered property that is a residential cooperative property, such notice shall be transmitted to both the owner of record of such residential cooperative property and the owner of record of the applicable residential cooperative dwelling unit; and

(ii) the address of any person who has registered with respect to such covered property pursuant to Administrative Code section 11-309.

(d) Filing of a petition for a hearing.

1. An owner of a covered property that is subject to a notice of penalty pursuant to this section may request a hearing by filing a petition with the department no later than 30 days from the date of transmission of such notice on a form designated by the department. Failure to file a petition for a hearing within such period shall result in the imposition of a penalty pursuant to subdivision (g) of this section.

2. A petition may be filed only by an owner of a covered property or by a duly authorized representative of the owner, provided that that in the case of a covered property that is a residential cooperative property, a petition may be filed by the owner of record or duly authorized representative of either such residential cooperative property or the applicable residential cooperative dwelling unit.

(e) Delegation to the office of administrative trials and hearings.

1. If, prior to issuance of a notice of penalty, the commissioner and OATH enter into a memorandum of understanding authorizing OATH to conduct hearings in accordance with the procedures set forth in title 48 of the rules of the city of New York and such memorandum of understanding has not been terminated, then upon receipt of a petition filed in a timely manner pursuant to subdivision (d) of this section: (i) the department shall transmit such petition to

OATH; and (ii) following a hearing on such notice of penalty, the presiding hearing officer shall make a recommendation to the commissioner with respect to whether to impose penalties pursuant to this section. The commissioner shall make determination regarding whether to impose penalties pursuant to this section no later than 30 days after the receipt of such recommendation, provided that the failure of the commissioner to make a determination within such time period shall not result in a waiver of such penalties. The commissioner shall transmit such determination to both the owner and the duly authorized representative of the owner, if any, at the addresses provided in the petition.

2. If the commissioner and OATH have not entered into a memorandum of understanding pursuant to paragraph 1 of this subdivision prior to issuance of a notice of penalty, or if such memorandum of understanding has been terminated prior to such issuance, any such hearing shall be conducted in accordance with the provisions of subdivision (f) of this section.

(f) Conduct of hearings by the department.

1. The commissioner shall designate a person to serve as hearing officer to hear petitions filed pursuant to these rules. Such person need not be an employee of the department.

2. Representation of petitioners. A duly authorized representative may appear on behalf of an owner at a hearing. If an owner is an individual, such individual may appear on their own behalf.

3. Documentation demonstrating that an individual is a duly authorized representative or such individual's status as a duly authorized representative is revoked must be filed with the hearing officer with or prior to such individual's appearance or submission of documents on behalf of an owner.

4. Consolidation, joinder, severance.

(i) Any party to a hearing may request the consolidation of hearings relating to the same owner or property.

(ii) Any party may request the severance of a matter in a hearing relating to a property when such property is not owned by the same owner or identical issues of fact or law are not involved.

(iii) Consolidation, joinder or severance of any case or issue shall be permitted at the discretion of the hearing officer.

5. Ex parte communications. No party to a hearing may make an ex parte communication to a hearing officer with respect to the merits of such hearing.

6. Burden of proof. The department shall have the burden of establishing each fact relevant to a determination of the matters reviewable pursuant to this subdivision by a preponderance of the evidence.

7. Hearings without personal appearance. A petition for a hearing without a personal appearance may be made by mail or on the department's website in accordance with this paragraph.

(i) A hearing by mail or website may be conducted by submission of a paper or electronic form, as applicable, if a petition filed pursuant to subdivision (d) of this section indicates that the petitioner wishes to conduct a hearing without a personal appearance. Such form must be received at an address or web portal designated by the department no later than 30 days following submission of such petition. Attached to such form, the petitioner may include legal memoranda, additional documents or other material in support of the owner's position and proof that the individual submitting such form is authorized to submit such petition pursuant to paragraph 2 of this subdivision.

(ii) Upon receipt of a copy of the form and any materials attached thereto, the department may also submit materials to the hearing officer to support the department's position within a reasonable time as determined by the hearing officer.

(iii) At any time after receipt of a petition indicating a request for a hearing without personal appearance, the hearing officer may by subpoena require the production of any relevant books, papers and documents upon written request of a petitioner or the department.

(iv) At any time after receipt of submissions by the petitioner and the department pursuant to subparagraphs (i) and (ii) of this paragraph, a hearing officer may give both the department and the petitioner the opportunity to submit additional materials and legal memoranda in support of their positions.

8. Hearing in person or through simultaneous electronic appearance. If a petition submitted pursuant to subdivision (d) of this section indicates that the petitioner wishes to conduct a hearing in person or through simultaneous electronic webcast, the following provisions shall apply to such hearing:

(i) The hearing officer may by subpoena require the production of any relevant books, papers and documents upon written request of a petitioner or the department.

(ii) The hearing officer shall be authorized to:

(A) administer oaths and affirmations;

(B) dictate the course of the hearing, set the time and place for conducting the hearing, and fix the time and manner for filing of legal briefs, memoranda and other documents;

(C) rule upon offers of proof and receive relevant evidence;

(D) require the parties at any time during the hearing to state their respective positions in support of any issues under consideration in the matter;

(E) question any party or witness for the purpose of clarifying the record; and

(F) take any other action that the hearing officer determines is appropriate to conduct a speedy and expeditious hearing.

(iii) The hearing officer shall set a schedule for the hearing as soon as is practicable. The parties shall be given notice of the hearing date no fewer than 20 days prior to such date. The notice shall include the time, place, and nature of the hearing, including whether the hearing will be conducted through simultaneous electronic webcast. The hearing officer will not consider a request for a postponement of a hearing date unless a written application setting forth good cause for the postponement is received by the hearing officer within 10 calendar days after transmission of the hearing notice. In the event of an emergency, however, a postponement may be considered on shorter notice. A postponement may be granted only in writing by the hearing officer.

(iv) At the hearing, the parties shall have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses.

(v) In the discretion of the hearing officer, technical rules of evidence need not be applied. However, the rules of privilege recognized by law shall apply. Objections to evidentiary offers may be made and shall be noted in the record.

(vi) *Hearing record.* Hearings shall be transcribed verbatim or recorded by electronic means determined by the hearing officer. A copy of the transcript or recording shall be provided to all parties within a reasonable time after the hearing is concluded.

9. *Hearing officer recommendation.*

(i) Following a hearing conducted pursuant to either paragraph 7 or 8 of this subdivision, the hearing officer shall make a recommendation to the commissioner regarding whether any documentation or certification was submitted as described in paragraph (1) of subdivision (c) of this section or a division of a residential condominium unit has been made as described in such paragraph and a recommendation regarding the imposition of a penalty pursuant to this section. Such recommendation shall be based on any relevant findings of fact and conclusions of law, upon consideration of the record as a whole and as supported by the evidence entered by the parties. A copy of the determination shall be mailed to the petitioner and to the petitioner's duly authorized representative, if any.

(ii) If a petitioner fails to appear at a hearing and no written postponement has been granted pursuant to subparagraph (iii) of paragraph 8 of this subdivision or fails to make a submission required by paragraph 7 of this subdivision within a timeframe designated by these rules or an order of the hearing officer, the hearing shall be concluded and the hearing officer shall make a recommendation to the commissioner for final determination based on the record, if any, previously made.

10. *Commissioner determination.*

The commissioner, upon review of a hearing officer's recommendation made pursuant to paragraph 9 of this subdivision, shall render a final determination regarding the imposition of a penalty pursuant to this section within 30 days of the receipt of such recommendation, provided that the failure of the commissioner to make a determination within such period shall not result in a waiver of such penalties. Notwithstanding any provision of this chapter to the contrary, the

commissioner shall not designate any individual to make such determination who audited or investigated the owner or property subject to such penalties, issued the notice of penalty, or represented the department in the appeal of such penalties. A copy of the determination shall be mailed to the petitioner and to the petitioner's duly authorized representative, if any. Such determination shall constitute a final agency determination and is subject to challenge pursuant to Article 78 of the civil practice law and rules.

(g) Penalty amounts. If the commissioner determines that any certification or documentation submitted to the department in connection with the imposition of the surcharge was submitted or a residential condominium was subdivided as described in paragraph (1) of subdivision (c) of this section and any such subdivision or certification or documentation if accepted as accurate by the department would result in:

1. the surcharge not being imposed upon such property, a penalty of 50% of the surcharge applicable to such property for such fiscal year shall be imposed, and the commissioner shall reinstate such surcharge against such property for such fiscal year; or

2. the valuation of a property pursuant to chapter 32 of title 11 of the administrative code at a lower amount than would otherwise have been assigned by the department, a penalty equal to 300% of the amount of the difference in surcharge that would result from such lower valuation shall be imposed, provided that such penalty shall not exceed 50% of the surcharge applicable to such property.

§ 62-05 Corrections and refunds.

(a) For any fiscal year beginning on or after July 1, 2027, the market value of a covered property determined pursuant to chapter 32 of title 11 of the administrative code may be amended in accordance with the procedures set forth in chapter 37 of this title of the rules of the city of New York.

(b) An owner may petition for correction of a clerical error or error in description related to the surcharge in accordance with the provisions of chapter 53 of this title of the rules of the city of New York.

(c) The department may make refunds of overpayments and double payments of the surcharge in accordance with the provisions of chapter 24 of this title of the rules of the city of New York.

§ 62-06 Primary Residency.

(a) Initial determination.

1. The department shall make, on an annual basis, an initial determination that a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, that has a market value amount equal to or greater than the applicable phase one or phase two market value thresholds established in section 11-3202 of the administrative code, is not a primary residence.

2. Unless credible information in the possession of the department indicates otherwise, the department will make a determination that a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, is used as primary residence if an individual that the department has identified as a covered owner:

(i) for purposes of a surcharge imposed in a tax year beginning on or after July 1, 2027, indicated in their state or federal personal income tax return for the most recent income tax year for which data is sufficiently available to the department that such covered property, or, in the case of a covered property that is a residential cooperative property, such residential cooperative dwelling unit: (A) was such covered owner's permanent home address; or (B) received a tax credit pursuant to subsection (eee) of section 606 of the tax law; or

(ii) received a tax exemption pursuant to sections 425, 458, 458-a, 458-b, 459-c, 462 or 467 of the real property tax law for such covered property for the fiscal year beginning immediately prior to the date of transmission of a notice of determination pursuant to paragraph (4) of this subdivision.

3. If the department does not make an initial determination that a property is a primary residence pursuant to paragraph (2) of this subdivision, the department may make a determination whether a property is a primary residence using other information available to such department, and based on factors including whether:

(i) a covered owner occupied such covered property or residential cooperative dwelling unit for a majority of days during the immediately prior calendar year; and

(ii) a covered owner indicated that such covered property or residential cooperative dwelling unit is such covered owner's permanent residence in other documents previously submitted to the city.

4. The department shall transmit notice of such determination of primary residence to each owner of a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, in writing no later than January 30 of each year, provided that for the fiscal year beginning on July 1, 2026, such notice shall be transmitted no later than August 30, 2026. Such notice shall include information regarding the manner in which an owner may appeal such initial determination pursuant to subdivision (b) of this section. The department may provide such notice electronically if the department has an email address for an owner of a covered property in records of the department and that communicating such notice by email would be practical and feasible. Failure by the department to provide this notice shall not affect the validity of the imposition of the surcharge authorized by chapter 32 of title 11 of the administrative code.

(b) Appeal.

1. An owner of a covered property, or, in the case of a covered property that is a residential cooperative property, a residential cooperative dwelling unit, or a duly authorized person may file an appeal of any initial determination made pursuant to subdivision (a) of this section no later than 30 days after the date that notice of such initial determination is transmitted

pursuant to paragraph (4) of such subdivision. Such covered owner must file such appeal in writing through an electronic portal designated by the department. Such appeal must include a certification that such property or dwelling unit is used as a primary residence and one or more of the following:

(i) proof that such covered property or dwelling unit is the primary residence of a covered owner pursuant to subparagraph (i) of paragraph (2) of this subdivision, provided that with respect to a beneficiary of a trust who is a covered owner pursuant to paragraph (iv), or a partner, shareholder or member who is a covered owner pursuant to paragraph (v), of the definition of covered owner in section 11-3201 of the administrative code, such appeal must also include proof set forth in subparagraph (iv) or (v) of paragraph (2) of this subdivision, as applicable;

(ii) proof that such covered property or dwelling unit is the primary residence of an individual pursuant to subparagraph (i) of paragraph (2) this subdivision and proof that such individual is the immediate family member of a covered owner pursuant to subparagraph (ii) of such paragraph, provided that with respect to a beneficiary of a trust who is a covered owner pursuant to paragraph (iv) or a partner, shareholder or member who is a covered owner pursuant to paragraph (v) of the definition of covered owner in section 11-3201 of the administrative code, such appeal must also include proof set forth in subparagraph (iv) or (v) of paragraph (2) of this subdivision, as applicable; or

(iii) proof that such covered property or dwelling unit is the primary residence of an individual pursuant to subparagraph (i) of paragraph (2) of this subdivision and proof that such individual is a lessee or sub-lessee of such property or dwelling unit pursuant to subparagraph (iii) of such paragraph.

2. (i) Unless credible information in the possession of the department indicates otherwise, proof of the primary residence of a person who is a covered owner, an immediate family member of a covered owner, a lessee or a sub-lessee includes:

(A) proof that a covered property or residential cooperative dwelling unit was listed as the permanent home address of such person on such person's most recently filed state or federal personal income tax return; or

(B) two or more of the following documents, provided that any such documents indicate residency at a covered property on or prior to the taxable status date:

(I) a photo-copy of the front and back of an unexpired New York state department of motor vehicles driver's license, learner's permit non-driver identification card or other record or United States department of state issued driver's license or non-driver identification card indicating that the covered property or residential cooperative dwelling unit is such person's residence;

(II) a voter identification card issued by the New York city board of elections; or

(III) other proof of primary residency determined to be acceptable by the department.

(ii) Unless credible information in the possession of the department indicates otherwise, proof that an individual is an immediate family member of a covered owner includes either of the following:

(A) one or more birth certificates indicating that such individual is an immediate family member of such covered owner; or

(B) affidavits from both such covered owner and such individual indicating that such persons are immediate family members.

(iii) Unless credible information in the possession of the department indicates otherwise, proof that that an individual is a lessee or sub-lessee of a covered property or residential cooperative dwelling unit includes:

(A) an unexpired lease or sub-lease for one or more units within such covered property or dwelling unit that is entered into through an arm's length transaction; and

(B) one or more of the following: a utility bill in such lessee's or sub-lessee's name issued within the last year, an unexpired renter's insurance policy that such lessee or sub-lessee is party to, or proof of rental payment to the owner of such property.

(iv) Unless credible information in the possession of the department indicates otherwise, proof that that an individual is a partner, member, or shareholder of a partnership, limited liability company, or corporation with a majority interest in such partnership, limited liability company or corporation must include:

(A) the operating agreement for such limited liability company, the partnership agreement for such partnership, or the articles of incorporation of such corporation; and

(B) an affidavit from an officer of such partnership, limited liability company or corporation indicating that such individual has a majority interest in such partnership, limited liability company or corporation.

(v) Unless credible information in the possession of the department indicates otherwise, proof that that an individual is the sole beneficiary of a trust includes:

(A) a copy of the trust agreement indicating that such individual is the sole beneficiary of such trust; and

(B) an affidavit indicating the same from a trustee of such trust.

(c) 1. The commissioner shall review the merits of any appeal submitted within the time period set forth in subdivision (b) and shall transmit to such owner a notice of determination to the email address associated with such appeal. Notwithstanding any provision of this chapter to the contrary, the commissioner shall not designate any individual to make such determination who made the initial determination pursuant to subdivision (a) of this section. Any denial of such appeal shall be a final determination and may be challenged in accordance with the procedures set forth in section 11-3206 of the administrative code.

2. Where an owner fails to file an appeal or fails to provide proof of primary residence pursuant to subdivision (b) of this section, the initial determination made by the department pursuant to subdivision (a) of this section shall constitute a final determination of such department and shall not be subject to challenge pursuant to section 11-3206 of the administrative code, unless such owner has challenged such initial determination of primary residence pursuant to paragraph two of subdivision (b) of section 11-3206 of the administrative code.

(d) Satisfactory proof of primary residency of one or more dwelling units in a covered property for a fiscal year is sufficient to exclude such property from the surcharge for such fiscal year, except that, in the case of a residential cooperative property, satisfactory proof of primary residency of a residential cooperative dwelling unit in such residential cooperative property for a fiscal year is sufficient to exclude only such residential cooperative dwelling unit from the surcharge for such fiscal year.

§ 62-07 Notice of the surcharge amount.

The statement of account required pursuant to section 11-129 of the administrative code and the assessment roll required pursuant to chapter 58 of the New York city charter shall collectively constitute notice of the imposition of the surcharge to an owner, provided that for the fiscal year beginning on July 1, 2026, notice that a payment is due and payable in accordance with subdivision e of section 11-3205 of the administrative code and such assessment roll shall constitute notice of imposition of the surcharge.

**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 Relating to Surcharge on Certain Non-Primary Residences

REFERENCE NUMBER: 2026 RG 045

RULEMAKING AGENCY: Department of Finance

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: 6/5/2026

**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 Relating to Surcharge on Certain Non-Primary Residences

REFERENCE NUMBER: DOF-83

RULEMAKING AGENCY: Department of Finance

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 a cure period is not practicable under the circumstances.

/s/ Francisco X. Navarro
Mayor's Office of Operations

June 5, 2026
Date