

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 an amendment to 1 RCNY 105-01 regarding requirements for the approval of a property tax abatement application for the installation of a green roof.

When and where is the Hearing? DOB will hold a public hearing on the proposed rule. The public hearing will take place at 10am on 5/14/14. The hearing will be in the 3rd floor conference room at 280 Broadway.

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 Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to dobrates@buildings.nyc.gov.
- **Mail.** You can mail written 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 written 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 before the hearing by calling 212-393-2085. You can also sign up in the hearing room before the hearing begins on 5/14/14. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by 5/14/14.

Do you 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 must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2085. You must tell us by 5/7/14.

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, a transcript of the hearing and copies of the written comments will be available to the public at the Office of the General Counsel.

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. DOB did not include this proposed rule amendment in its regulatory agenda for this Fiscal Year, as it was not anticipated when the agenda was drafted. The need for this proposed rule amendment came about due to an unforeseen change to the state law.

Where can I find the DOB's rules? The DOB's rules are in Title 1 of the Rules of the City of New York. They can also be found on the DOB's website, here: http://www.nyc.gov/html/dob/html/codes_and_reference_materials/rules.shtml.

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

Originating from input from applicants and other parties affected by the existing laws and rules relating to property tax abatements for the installation of green roofs, with the assistance of the New York City Department of Environmental Protection (DEP), New York State has amended Title 4-B of Article 4 of the NYS Real Property Tax Law.

Therefore, in conjunction with DEP, the Department of Buildings is proposing to amend this rule in order to coincide with relevant amendments made to the revised state law.

Such proposed amendment to the rule will expand the definition of "vegetation layer" to include "native plant species, and/or agricultural plant species". This amendment would allow rooftop farms to qualify for the abatement, as they provide similar stormwater management benefits as other green roofs, while bringing the added benefit of providing local produce to New York City residents.

New material is underlined.

Section 1. Paragraph (7) of Subdivision (c) of 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:

- (7) Vegetation layer. The layer of a green roof required by Title 4-B § 499-aaa(10)(g) that, in accordance with generally accepted horticultural practice and as certified by an architect, engineer, New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute, consists of live plants such as sedum or equally drought resistant and hardy plant species, native plant species, and/or agricultural plant species spaced in such a manner that such plants will cover at least eighty (80) percent of such layer by the end of the compliance period.

**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: Green Roof Rule Amendment

REFERENCE NUMBER: 2013 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
Acting Corporation Counsel

March 26, 2014
Date

**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: Green Roof Rule Amendment

REFERENCE NUMBER: DOB-47

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/ [Sabrina Fong]
Mayor's Office of Operations

3/26/2014
Date