

New York City Department of Finance

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Finance is proposing rules governing mergers and apportionments of real property tax lots.

When and where is the hearing? The Department of Finance will hold a public hearing on the proposed rule. The public hearing will take place at 11:00am on March 14, 2017. The hearing will be in the Department of Finance hearing room at 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

This location has the following accessibility option available:

Wheelchair Accessible

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

- **Website.** You can submit comments to the Department of Finance through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to laroset@finance.nyc.gov.
- **Mail.** You can mail comments to NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201, Attn: Timothy LaRose.
- **Fax.** You can fax comments to NYC Department of Finance, Attn: Timothy LaRose, at (718) 488-2491.
- **Hearing.** You can speak at the public 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 (718) 488-2007, or you can sign up in the hearing room before the hearing begins on March 14, 2017. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline to submit written comments is March 14, 2017.

What if I need assistance to participate in the hearing? The meeting will be held at 345 Adams Street, 3rd Floor, Brooklyn, NY 11201. The back entrance is accessible to persons using wheelchairs and others with disabilities. Accessible restrooms are available. Materials in alternative formats, ASL interpreters, real-time captioning and other accommodations will be made available upon request. Please contact Joan Best; by telephone, by calling (718) 488-2007; or by e-mail at bestj@finance.nyc.gov to make your accommodation requests. Provide at least 72 hours' notice prior to the hearing to ensure availability. In order to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are requested to refrain from using perfume, cologne, and other fragrances.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website: <http://rules.cityofnewyork.us/>. In

addition, copies of all submitted comments concerning the proposed rule and a summary of oral comments from the hearing will be available to the public a few days after the hearing at NYC Department of Finance, Legal Affairs Division, 345 Adams Street, 3rd Floor, Brooklyn, N.Y. 11201.

What authorizes the Department of Finance to adopt this rule? Section 11-203 of the Administrative Code of the City of New York and New York City Charter (“Charter”) §§ 1043 and 1504 authorize the Department of Finance to adopt this proposed rule.

Where can I find the Department of Finance’s rules? The Department of Finance’s rules can be found in Title 19 of the Rules of the City of New York.

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

Statement of Basis and Purpose of Proposed Rules

The purpose of these rules is to set forth how real property tax lots may be merged or apportioned pursuant to Section 11-203 of the Administrative Code of the City of New York. All requests for merger or apportionment must be approved by the New York City Department of Finance. Approval will not be granted for apportionments unless the New York City Department of Buildings certifies that newly created parcels comply with all applicable zoning laws. These rules codify our current policy, except an application will not be reviewed or approved if the applicant has outstanding judgment debt issued by the Environmental Control Board under certain circumstances.

Matter underlined is new.

Matter in [brackets] is to be deleted.

“Will” 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. Title 19 of the Rules of the City of New York is amended by adding a new chapter 54 to read as follows:

Chapter 54

MERGERS AND APPORTIONMENTS OF REAL PROPERTY TAX LOTS

§ 54-01 Definitions

Application. The term “application” means an application for a merger or apportionment.

Apportionment. The term “apportionment” means the division of one separately assessed parcel of real property into two or more parcels of real property.

Department. The term “Department” means the Department of Finance of the City of New York.

Merger. The term “merger” means the combination of two or more separately assessed parcels of real property into one larger parcel of real property.

§ 54-02 Application for Mergers or Apportionments

(a) Applications for mergers or apportionments are available on the Department’s website or can be requested by dialing 311. Except as otherwise directed by the Department, all applications and all supporting documentation required by the Department must be submitted in person to the Department’s tax map office.

(b) All applicants must meet the following requirements:

(1) Outstanding taxes, charges or tax liens for prior tax years related to the parcel or parcels of real property included in the application must be satisfied unless the applicant has entered into an installment agreement to satisfy such taxes, charges or tax liens and they are current on such installment agreement.

(2) Real estate taxes for the current year for the parcel or parcels of real property included in the application must be up-to-date unless the applicant has entered into an installment agreement to pay such real estate taxes and they are current on such installment agreement.

(3) Applicant must not have any outstanding Environmental Control Board judgment debt issued by the New York Office of Administrative Trials and Hearings (“OATH”) pursuant to section 1049-a of the Charter on the parcel(s) included in the application unless the applicant has entered into an installment agreement to satisfy such judgment debt and they are current on such installment agreement. An applicant will not be required to satisfy any such outstanding judgment debt for which there are any pending Article 78 actions or motions before OATH. The applicant will not be required to satisfy any outstanding Environmental Control Board judgment debt on the parcel(s) included in a merger or apportionment application that were incurred by a previous owner(s) or for any other parcel(s) of property they own.

(4) The deed on record must show that the applicant owns the parcel or parcels of real property included in the application.

(c) There are different document submission requirements for new buildings, alterations on existing buildings, vacant land, condominiums and lot mergers. The current submission requirements are set forth below:

(1) Apportionments - New buildings:

(i) Completed application.

(ii) Final survey prepared by a licensed land New York State licensed surveyor, which must include square footage.

(iii) An approved subdivision plan work application (“PW1”) filing for a new building.

(2) Apportionments - Alterations on existing buildings or vacant land:

(i) Completed application.

(ii) Except for vacant land, an approved subdivision PW1 filing for alteration of an existing building.

(iii) Survey for alteration on existing building or vacant land.

(3) Apportionments - Condominiums

- (i) The applicant must comply with the requirements set forth in Article 9B of the Real Property Law.
- (ii) The applicant must complete the Department's Application for Condominium Apportionment and Approval (RP-602C) online and request new lots. Upon approval to proceed, the applicant must submit the completed RP-602C Application to the Department.

(4) Lot Mergers:

- (i) Completed application.
- (ii) The deed on record must show common ownership of all the parcels of real property included in such application. If the deed lacks a metes and bounds description but refers only to a filed tax map, the applicant must provide a current metes and bounds description, prepared by a New York State licensed surveyor. Applications requesting the merging of tax exempt parcels of real property with non-exempt parcels of real property will not be approved.
- (d) The Department, in its sole discretion, may require the applicant to provide additional information. The applicant will be notified by the Department in writing concerning any requests for such additional information. The applicant will be required to provide the additional information and re-submit such application to the Department for review and approval. Failure to re-submit a revised application within 60 days will result in a denial of the application.
- (e) If an applicant has been advised that their application will not be reviewed because of their outstanding Environmental Control Board judgment debt issued by OATH pursuant to section 1049-a of the Charter, and the applicant believes that attribution of such debt is incorrect, the applicant may appeal this determination in accordance with the appeal procedures set forth below in section 54-04.
- (f) All application fees must be paid before the Department will review an application, except as specified below:

The commissioner will waive fees for processing applications for tax lot mergers and/or apportionments set forth in subdivision (e) of section 9-01 of title 19 of the Rules of the City of New York in connection with applications for work that is officially approved and funded under the city's Build it Back Program. Any such fees already paid by an officially approved Build it Back Program applicant on or after July 1, 2014 will be refunded to the applicant who paid such fees upon the submission and approval of the Department's tax lot merger and/or apportionment refund application.

§ 54-03 Approval by the Department

If the Department preliminarily approves an application, the applicant must then submit the application to the New York City Department of Buildings for certification that the newly created parcels comply with all applicable zoning laws. If the New York City Department of Buildings provides such certification, the applicant must submit both approvals to the Department for final approval in order to complete the requested apportionment or merger, provided that applicants who are seeking a condominium apportionment must also receive prior approval from the New York State Attorney General's Office before submission to the Department for final approval.

§ 54-04 Appeal Procedures

The applicant may appeal a determination rendered by the Department on a form prescribed by the Department no later than 90 days after the date on the Department's determination letter. The Department's appeal determination is reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules.

**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: Mergers and Apportionments of Real Property Tax Lots

REFERENCE NUMBER: 2016 RG 062

RULEMAKING AGENCY: The 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
Acting Corporation Counsel

Date: January 31, 2017

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: Mergers and Apportionments of Real Property Tax Lots

REFERENCE NUMBER: DOF-24

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 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

January 31, 2017
Date