

## NOTICE OF RULE MAKING

Pursuant to the power vested in me as Commissioner of Finance by New York City Administrative Code section 11-203 and sections 1043 and 1504 of the New York City Charter, I hereby promulgate rules for the merger and apportionment of real property tax lots. This rule was published in the proposed form on February 10, 2017 and a superseding notice was published on March 14, 2017. A hearing for public comment was held on March 28, 2017. The Department made substantive changes to several sections of the final rule in response to comments received concerning the proposed rule.

1. Section 54-02(b)(3) was added to clarify the procedures relating to installment agreements for apportioned and merged parcels of real property:

(3) If an installment agreement already exists on parcels of real property that will be apportioned or merged, the owner must enter into a new installment agreement for the resulting apportioned or merged parcels of real property before the apportionment or merger will be approved by the Department. Any liens or charges on the parcels of real property to be apportioned or merged will be divided among the approved parcels of real property and the Department may take, if necessary, the same enforcement action against the apportioned or merged parcels of real property as it could take against the parcels of real property if they had not been apportioned or merged.

2. Section 54-02(g) was added to clarify what may be created on a newly merged lot, if all other requirements are met: “Once a lot merger is approved by the Department, either a fee condominium or a leasehold condominium may be created if all other requirements are met.”
3. Section 54-03 was revised to reflect that New York City Department of Buildings certification is not required for vacant parcels and mergers. The following language was added: “Such certification is not required for vacant parcels and mergers.”
4. Section 54-04 was revised to provide additional information concerning appeal procedures. The following language was added: “The Department will notify the applicant concerning the determination rendered by the Department. Such notice will inform the applicant as to the reasons for the determination.”

S/S

Jacques Jiha, Commissioner of Finance

### **Statement of Basis and Purpose of 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.

**Build it Back Program:** The term “Build it Back Program” means the program developed by the City of New York in 2013 to provide recovery assistance to the owners of one to four unit residential properties damaged by Superstorm Sandy. The Disaster Relief Appropriation Act, Pub.L. No. 113-2, 127 Stat. 4 (2013) appropriated federal funds to the United States Department of Housing and Urban Development for relief from Superstorm Sandy. The Build it Back Program uses funds from the HUD Community Development Block Grant Disaster Recovery program and is designed to assist both owner-occupied and tenant-occupied properties within New York City.

**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) If an installment agreement already exists on parcels of real property that will be apportioned or merged, the owner must enter into a new installment agreement for the resulting apportioned or merged parcels of real property before the apportionment or merger will be approved by the Department. Any liens or charges on the parcels of real property to be apportioned or merged will be divided among the approved parcels of real property and the Department may take, if necessary, the same enforcement action against the apportioned or merged parcels of real property as it could take against the parcels of real property if they had not been apportioned or merged.

(4) Applicants 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 is 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.

(5) The deed on record must show that the applicant owns the parcel or parcels of real property included in the application. The lessee of a lease with a term of ninety-nine or more years will also be eligible to submit an application for a merger or apportionment. If an application is submitted by a lessee, the fee owner will also be required to sign the application.

(c) There are different document submission requirements for new buildings, alterations on existing buildings, vacant land, condominiums and lot mergers. The 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) An approved subdivision PW1 filing for alteration of an existing building. An approved PW1 filing is not required for vacant land unless the vacant parcel is subdivided from a parcel that contains a 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.

(g) Once a lot merger is approved by the Department, either a fee condominium or a leasehold condominium may be created if all other requirements are met.

**§ 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. Such certification is not required for vacant parcels and mergers. 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 Department will notify the applicant concerning the determination rendered by the Department. Such notice will inform the applicant as to the reasons for the determination. 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.