

**CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Housing Preservation and Development is proposing amendments to the rules governing the Alternative Enforcement Program.

When and where is the Hearing? The Department of Housing Preservation and Development will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM-11:00 AM on August 20, 2015. The hearing will be in Room 5R1 at 100 Gold Street, New York, N.Y. 10038.

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

- **Website.** You can submit comments to the Department of Housing Preservation and Development through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rules@hpd.nyc.gov.
- **Mail.** You can mail written comments to Assistant Commissioner Grace DeFina at the Department of Housing Preservation and Development, 100 Gold Street, Room 5M2, New York, N.Y. 10038.
- **Fax.** You can fax written comments to the Department of Housing Preservation and Development, Attn: Grace DeFina, at 212 863-6959.
- **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 212 863-8713, or you can sign up in the hearing room before the hearing begins on August 20, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? Comments must be submitted before the close of business on August 20, 2015.

What if I need assistance to participate in the hearing? You must tell the Department 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 at 212 863-8713. You must tell us by August 7, 2015.

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 summary of oral comments concerning the proposed rule will be available to the public at the Department of Housing Preservation and Development, Office of Legal Affairs, 100 Gold Street, New York, N.Y. 10038.

What authorizes the Department of Housing Preservation and Development to make this rule? Sections 1043 and 1802(1) of the New York City Charter and section 27-2153 of the New

York City Administrative Code authorize the Department of Housing Preservation and Development to make this proposed rule. This proposed rule was not included in the Department of Housing Preservation and Development's regulatory agenda for this fiscal year because it was not anticipated when the Department published the agenda.

Where can I find the Department of Housing Preservation and Development's rules? The rules of the Department of Housing Preservation and Development are located in Title 28 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department of Housing Preservation and Development 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 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Under the Alternative Enforcement Program (AEP), the Department of Housing Preservation and Development (HPD) identifies the most distressed buildings in need of repair and systems replacement, and monitors the progress of owners towards correcting Housing Maintenance Code violations or corrects the violations itself. Pursuant to section 27-2153 of the New York City Administrative Code, HPD is authorized to revise the criteria used to select buildings for participation in the program and does so in Chapter 36 of Title 28 of the Rules of the City of New York. Local Law 64 of 2014 amended section 27-2153 by increasing the number of buildings that will participate in the AEP annually to 250, and authorizing HPD to set the criteria for participation by rule.

In 2016, the ninth year of the program, and for each succeeding year, the proposed rules specify the number of housing maintenance code violations issued and the amount of paid or unpaid emergency repair charges incurred during a look-back period that result in a property being considered for inclusion in the AEP. The look-back period is the interval of time in the past during which violations were issued or charges accrued.

The proposed rules also add criteria for prioritizing buildings for participation, and for adding buildings when the initial criteria do not yield a total of 250 buildings. The rules also define the term "rehabilitation" for the purpose of implementing the authority under the law to exclude buildings from the AEP that are the subject of a rehabilitation loan made by HPD or the New York City Housing Development Corporation. The rules also exclude buildings that were formerly in the AEP and discharged in the past three years as a result of work performed by HPD.

"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.

New material in the following rule is underlined, deleted material is in [brackets].

Section one. Section 36-05 of chapter 36 of title 28 of the rules of the City of New York is amended to read as follows:

* * *

§36-05 Criteria for Identification of Buildings for Participation in the Alternative Enforcement Program.

(c) Beginning in the ninth year of the Alternative Enforcement Program, and in each succeeding year, the Department will use the following criteria to identify distressed buildings for participation in the program:

(1) The Department will identify no more than twenty-five multiple dwellings that contain less than six units for participation in the program. Such multiple dwellings must have:

(i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the five-year period prior to such identification that equals in the aggregate five or more such violations for every dwelling unit in the multiple dwelling; and

(ii) Paid or unpaid Emergency Repair Charges of five thousand dollars (\$5,000.00) or more, which were incurred within the five-year period prior to such identification;

(2) A multiple dwelling that contains at least six but not more than fourteen dwelling units must have:

(i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the five-year period prior to such identification that equals in the aggregate five or more such violations for every dwelling unit in the multiple dwelling; and

(ii) Paid or unpaid Emergency Repair Charges of five thousand dollars (\$5,000.00) or more, which were incurred within the five-year period prior to such identification.

(3) A multiple dwelling that contains fifteen or more dwelling units must have:

(i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the five-year period prior to such identification that equals in the aggregate three or more such violations for every dwelling unit in the multiple dwelling; and

(ii) Paid or unpaid Emergency Repair Charges of two thousand five hundred dollars (\$2,500.00) or more, which were incurred within the five-year period prior to such identification.

[(c)] (d) [For] Beginning in the ninth year of the Alternative Enforcement Program, and in each succeeding year, for purposes of identifying buildings for participation in the Alternative Enforcement Program, those buildings having the highest amount of paid and unpaid

Emergency Repair Charges incurred within the [two-year] five-year period prior to such identification shall be selected first.

(e) Beginning in the ninth year of the Alternative Enforcement Program, and in each succeeding year, under the circumstances where the criteria set forth in subdivision (c) do not yield 250 buildings for participation in the program, the Department may apply the following criteria to select additional buildings for participation:

(1) A multiple dwelling that contains six or more dwelling units must have:

(i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the five-year period prior to such identification that equals in the aggregate four or more such violations for every dwelling unit in the multiple dwelling;

and

(ii) For purposes of identifying additional buildings for participation in the Alternative Enforcement Program pursuant to this paragraph, those buildings having the highest number of open hazardous and immediately hazardous violations within the five-year period prior to such identification shall be selected first.

§ 2. Chapter 36 of title 28 of the rules of the City of New York is amended by adding a new section 36-06 to read as follows:

36-06. (a) For the purpose of excluding a building from the Alternative Enforcement Program pursuant to administrative code §27-2153(e)(2) on the basis that the building is the subject of a loan provided by or through the department or the New York City Housing Development Corporation for the purpose of rehabilitation, the term "rehabilitation" shall mean that the scope of work for the building under the loan includes a building-wide replacement of a major component of the building.

(b) The Department may exclude from the Alternative Enforcement Program any building that previously participated in the program and was discharged within the prior three years as a result of work completed by the Department.

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 Governing Alternative Enforcement Program

REFERENCE NUMBER: 2015 RG 053

RULEMAKING AGENCY: Department of Housing Preservation and Development

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

Date: June 11, 2015

Acting Corporation Counsel

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 Governing Alternative Enforcement Program

REFERENCE NUMBER: HPD-21

RULEMAKING AGENCY: HPD

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) 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/ Norma Ponce

Mayor's Office of Operations

June 11, 2015

Date