

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

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on amendments to rules relating to the alternative enforcement program

Date/Time: December 21, 2012
10:00 A.M. to 11:00 A.M.

Location: 100 Gold Street, Room 5R2 (Fifth Floor)
New York, N.Y. 10038

Contact: Assistant Commissioner Grace DeFina
100 Gold Street, Room 4C1
New York, N.Y. 10038

Proposed Rule Amendment

Pursuant to the authority vested in the City of New York Department of Housing Preservation and Development (HPD) by Chapter 61 of the New York City Charter (Charter) and by New York City Administrative Code §27-2153 and in accordance with Charter §1043(b), HPD intends to propose amendments to rules relating to the Alternative Enforcement Program. The proposed amendment was included in HPD's regulatory agenda and is promulgated as the result of amendments to Administrative Code §27-2153.

Instructions

- Prior to the hearing, written comment regarding these rules may be sent to Assistant Commissioner Grace DeFina, 100 Gold Street, Room 4C1, New York, New York 10038. Written comments may also be submitted electronically through NYCRULES at www.nyc.gov/nycrules, on or before December 21, 2012.
- Individuals seeking to testify should notify HPD at the above address prior to the date of the hearing. Speakers will be limited to five minutes.
- Individuals requesting a sign language interpreter or other form of reasonable accommodation for a disability should notify Assistant Commissioner Grace DeFina at the above address by December 1, 2012.

- After the hearing, written comments and a summary of oral comments received at the hearing may be requested by calling the Office of Legal Affairs, between 9:00 A.M. and 5:00 P.M., at (212) 863-8381.

STATEMENT OF BASIS AND PURPOSE

Under the Alternative Enforcement Program (AEP), the Department of Housing Preservation and Development (HPD) identifies distressed buildings in need of repair and systems replacement, and monitors progress by owners towards correction of Housing Maintenance Code violations, or undertakes correction of the violations itself. The New York City Council recently amended Administrative Code §27-2153 to authorize HPD to set the criteria used to select buildings for the program. As a result, HPD is amending the AEP rules to include these new criteria. The selection of the criteria is based upon five years of experience in enforcing the AEP. The new criteria are intended to better target buildings likely to benefit from inclusion in the AEP, use agency resources more effectively to improve the positive outcome for these buildings, increase the cost effectiveness of the AEP, and prevent buildings from reentering the program at a later date. An analysis of the effect of selection criteria on the inventory of buildings entering the program is set forth in HPD's report entitled, "The Alternative Enforcement Program: 5 Year Report: 2007-2012," available on HPD's website. New criteria will be used for identifying buildings for participation in the program beginning January 31, 2013.

"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 36-01 of Chapter 36 of Title 28 of the Rules of the City of New York is amended by renumbering subdivisions c and d as subdivisions e and f, respectively and adding a new subdivision c to read as follows:

(c) Emergency Repair Charge. "Emergency Repair Charge" shall mean a charge or lien incurred as the result of repair work ordered by the Department pursuant to §§27-2125 or 27-2127 of the Housing Maintenance Code.

§2. Section 36-04 of Chapter 36 of Title 28 of the Rules of the City of New York is amended to read as follows:

§36-04. Education Course.

An owner or managing agent or other designated representative of a building which is the subject of an order by the Department pursuant to subdivision k of §27-2153 of the Housing Maintenance Code, [shall] may be required to complete a course of training relating to building operation and maintenance, approved by the Department, prior to discharge of the building from the Alternative Enforcement Program. The charge for participation in such course shall be \$300 for each participant. Such charge shall be paid prior to commencement of participation in such course.

§3. Chapter 36 of Title 28 of the Rules of the City of New York is amended by adding a new section 36-05 to read as follows:

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

(a) Beginning in the sixth year of the Alternative Enforcement Program, the Department will use the following criteria to identify distressed buildings for participation in the program:

(1) A multiple dwelling that contains at least three but not more than nineteen dwelling units must have:

(i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the three-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 three-year period prior to such identification.

(2) A multiple dwelling that contains twenty or more dwelling units must have:

(i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the three-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 three-year period prior to such identification.

(b) For purposes of identifying buildings for participation in the Alternative Enforcement Program pursuant to this section, those buildings having the highest amount of paid and unpaid Emergency Repair Charges incurred within the two-year period prior to such identification shall be selected first.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Alternate Enforcement Program Rules

REFERENCE NUMBER: 2012 RG 064

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
Acting Corporation Counsel

Date: August 30, 2012

**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: Alternate Enforcement Program Rules

REFERENCE NUMBER: HPD-8

RULEMAKING AGENCY: Department of Housing Preservation and Development

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 Navarro
Mayor's Office of Operations

September 4, 2012
Date