

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

Notice of Adoption

Notice of Adoption to amend rules relating to underlying conditions.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of Housing Preservation and Development by Sections 1043 and 1802 of the New York City Charter and Section 27-2091(c) of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department amends Chapter 44 of Title 28 of the Rules of the City of New York.

This rule was proposed and published in the City Record on February 11, 2022. A public hearing was held on March 17, 2022. The Department of Housing Preservation and Development (“HPD” or “Department”) received and reviewed comments submitted.

Statement of Basis and Purpose

The adopted rules amend section 44-02 of Chapter 44 of HPD's rules relating to orders by the Department for repair of underlying conditions. Underlying conditions are physical defects or failure of a building system that is causing or has caused a violation of the Administrative Code, Multiple Dwelling Law, or any other state or local law that imposes requirements on dwellings, including, but not limited to, a structural defect or failure of a heating, plumbing, or other system.

The rules add to prioritization of selection of buildings for the program, the consideration of certain health indicators, as determined by the Department of Health and Mental Hygiene, that are also related to housing conditions. Such additional prioritization is necessary because it will assist in targeting agency resources towards those buildings that pose a risk to the health and safety of occupants.

HPD's authority for these rules is found in section 1802 of the New York City Charter and section 27-2091(c) of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Section one. Paragraph 2 of subdivision a of section 44-02 of Chapter 44 of Title 28 of the rules of the city of New York is amended to read as follows:

(a) The Department may identify buildings for issuance of orders to correct Underlying Conditions based upon the following criteria:

(1) A building with a Class B or Class C violation on record related to the existence of mold or water leaks that was issued by the Department within the prior year preceding issuance of the order that has not been properly certified as corrected by the owner, or that was corrected by the Department, and such building:

(i) Contains three to five dwelling units and at least 50% of such units have one such violation;

(ii) Contains six to nine dwelling units and at least 25% of such units have one such violation; or

(iii) Contains ten dwelling units or more and at least 15% of such units have one such violation.

(2) The Department will prioritize selection of buildings meeting the criteria in paragraph (1) of this subdivision first by those buildings [with the highest total number of Class C violations relating to the existence of mold or water leaks,] with conditions that may contribute to asthma outcomes and other relevant health indicators as determined by the Department of Health and Mental Hygiene. followed by those buildings with the highest total number of [both] Class C and Class B violations relating to the existence of mold or water leaks.