

**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 (“HPD”) is proposing amendments to rules relating to selection of buildings for issuance of orders by the Department for repair of underlying conditions.

When and where is the hearing? HPD will hold a public hearing on the proposed rules using Webex Event Center. The public hearing will take place at 10:00 AM – 11:00 AM on March 17, 2022.

To participate in the public hearing, enter the Webex URL:

<https://nycphpd.webex.com/nycphpd/j.php?MTID=md35ee48869633411247120651a84fbee>

If prompted to provide a password or number, please enter the following:

Meeting Number: 2342 925 8178

Password: Q6gURPds728

You may also join the hearing via audio device or dial in via phone. To dial in, please use the following dial in number and participant code:

Phone: +1-646-992-2010 United States Toll (New York City)

+1-408-418-9388 United States Toll

Access code: 2342 925 8178

Password (if requested): Q6gURPds728

Join by video system:

Dial: 23429258178@webex.com

You can also dial: 173.243.2.68 and enter your meeting number.

If you have low bandwidth or inconsistent internet connection, use the dial-in option for the hearing. this will reduce the possibility of dropped audio and stutters.

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

- **Website.** You can submit comments to HPD through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@hpd.nyc.gov.

- **Mail.** You can mail comments to Deputy Commissioner AnnMarie Santiago, Department of Housing Preservation and Development, 100 Gold Street, Room 601, New York, N.Y. 10038.
- **Fax.** You can fax comments to Deputy Commissioner AnnMarie Santiago at 212 863-7010.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling 212 863-8603 or by emailing at rifenm@hpd.nyc.gov. by 5:00 PM on March 16, 2022. Please sign up in advance if you can. You can speak for 3 minutes.

Is there a deadline to submit comments? The deadline for submission of comments is March 17, 2022.

What if I need assistance to participate in the hearing? You must tell HPD if you need a reasonable accommodation of a disability at the hearing. You can tell us by mail at the address given above. You may also tell us by telephone at 212 863-8603. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by March 1, 2022.

This hearing has the following accessibility option(s) available: Simultaneous transcription for people who are deaf or hard of hearing and audio-only access for persons with vision impairments.

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 rules will be available to the public.

What authorizes HPD to make these rules? Sections 1043 and 1082 of the New York City Charter (“City Charter”), and section 27-2091(c) of the Administrative Code of the City of New York authorize HPD to make these proposed rules. These rules were not included in HPD’s regulatory agenda for this Fiscal Year because they were not anticipated.

Where can I find HPD’s rules? The agency’s rules are in title 28 of the Rules of the City of New York.

What laws govern the rulemaking process? HPD 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 Rules

The proposed rules would 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.

New material is underlined.

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.

**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: Selection of Buildings for Issuance of Orders for Repair of Underlying Conditions

REFERENCE NUMBER: 2021 RG 036

RULEMAKING AGENCY: Department of Housing Preservation 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: 1/24/2022

**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: Selection of Buildings for Issuance of Orders for Repair of Underlying Conditions

REFERENCE NUMBER: HPD-81

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 X. Navarro
Mayor's Office of Operations

January 24, 2022
Date