

**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 October 14, 2014. 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 October 14, 2014. 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 October 14, 2014.

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 October 1, 2014.

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.

The proposed rules amend those criteria to increase the look-back period from three years to five years for violations and paid or unpaid emergency repair charges. The look-back period is the interval of time in the past during which violations or charges accrued, for the purposes of identifying buildings for participation in the AEP. The increase would apply beginning in the eighth year of the program.

Distress in a building can be acute or the result of a long period of neglect. The current look-back period allows HPD to identify buildings experiencing acute or short term distress. The proposed changes will allow HPD to also include in the AEP buildings experiencing a slow but steady decline in conditions over time. The changes will also increase the cost effectiveness of the AEP by addressing conditions before they become acute and more expensive to correct.

"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.

(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) Beginning in the eighth 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 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 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 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) 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
212-356-4028**

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

RULE TITLE: Amendment of Rules Governing Alternative Enforcement Program

REFERENCE NUMBER: 2014 RG 040

RULEMAKING AGENCY: Department of Housing Preservation and Development (HPD)

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: June 6, 2014

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-17

RULEMAKING AGENCY: Department of Housing Preservation and Development (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) 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/ Stephen Narloch
Mayor's Office of Operations

6/10/2014
Date