

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 rules implementing Local Law 101 of 2015, which provides for the Department of Buildings to refer to HPD immediately hazardous elevator violations that an owner fails to correct. Upon such referral, HPD will assess the violation condition under Administrative Code §27-2125 to determine what action may be necessary.

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 April 15, 2016. 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 Josh Cucchiaro at: Department of Housing Preservation and Development, 100 Gold Street, Room 8-F07, New York, N.Y. 10038.
- **Fax.** You can fax written comments to the Department of Housing Preservation and Development, Att: Josh Cucchiaro at: 212 863-8375.
- **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 212 863-6610, or you can sign up in the hearing room before the hearing begins on April 15, 2016. 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 April 15, 2016.

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 212 863-6610. You must tell us by April 5, 2016.

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 100 Gold Street, Office of Legal Affairs, Department of Housing Preservation and Development, New York, N.Y. 10038.

What authorizes the Department of Housing Preservation and Development to make this rule? New York City Charter §§ 1043 and 1802(6)(l) and New York City Administrative Code §§28-219.4 and 27-2125 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 the local law authorizing the program had not yet been enacted.

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 New York City Charter §1043 when creating or changing rules. This notice is made according to the requirements of New York City Charter §1043.

Statement of Basis and Purpose of Proposed Rule

Local Law 101 of 2015 (LL 101) requires the Department of Buildings (DOB) to refer to the Department of Housing Preservation and Development (HPD) immediately hazardous elevator violations in multiple dwellings that are found after inspection to be uncorrected. When DOB inspectors find an immediately hazardous condition in an elevator that requires the elevator to be taken out of service until the condition is corrected, they will refer the condition to HPD. Upon such referral, HPD will make an assessment of what action may be **necessary** based on the inoperable condition of the elevator and other relevant factors. The rules provide criteria to assist HPD in making its determination regarding such action.

"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. Title 28 of the rules of the city of New York is amended by adding a new chapter 48 to read as follows:

CHAPTER 48

ELEVATOR VIOLATION REFERRALS

§ 48-01. (a) Upon referral to the Department by the Department of Buildings of an immediately hazardous elevator violation in a multiple dwelling which has not been corrected by the owner at the time of such referral, the Department will attempt to evaluate such violation based upon information provided to it by the Department of Buildings and from any other source, to determine what action may be taken by the Department. Such determination may be based upon the following criteria:

(1) Whether the dwelling units in the multiple dwelling are serviced by any other operable elevator, as determined by the Department of Buildings;

(2) The status of any enforcement action taken by the Department of Buildings or the Department against the owner of the multiple dwelling that is the subject of the referred immediately hazardous elevator violation;

(3) Any corrective actions that have been taken by the owner of the multiple dwelling, as reported by the Department of Buildings, with respect to the immediately hazardous elevator violation;

(4) Whether the owner of the multiple dwelling has a contract for repair of elevators as required pursuant to Administrative Code §28-304.7;

(5) The ongoing status of the immediately hazardous elevator violation as reported by the Department of Buildings after reinspections pursuant to Administrative Code §28-219.2.2; and

(6) Any other information that the Department obtains regarding the immediately hazardous violation and the status of the repair of such violation.

§48-02. The Department may take such actions as it determines are necessary to address the referred immediately hazardous elevator violation, including, but not limited to, ordering the owner to correct such referred violation, performing the work to correct such referred violation, and taking enforcement action against the owner of the multiple dwelling that is the subject of such referred violation.

**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: Immediately hazardous elevator violations

REFERENCE NUMBER: 2016 RG 005

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: February 1, 2016

**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: Immediately hazardous elevator violations

REFERENCE NUMBER: HPD-26

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) 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

February 1, 2016
Date