

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

Notice of Adoption

NOTICE IS HEREBY GIVEN that 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 and section 27-2153 of the New York City Administrative Code, and in accordance with section 1043 of the Charter, HPD hereby adopts amendments to the rules governing the Alternative Enforcement Program. A public hearing was held on August 20, 2015.

Statement of Basis and Purpose of the Adopted 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. Local Law 64 of 2014 amended section 27-2153 by increasing the number of buildings that will participate in the AEP annually to 250, and authorizing HPD to set the criteria for participation by rule.

In 2016, the ninth year of the program, and for each succeeding year, the adopted rules specify the number of housing maintenance code violations issued and the amount of paid or unpaid emergency repair charges incurred during a look-back period that result in a property being considered for inclusion in the AEP. The look-back period is the interval of time in the past during which violations were issued or charges accrued.

The adopted rules also add criteria for prioritizing buildings for participation, and for adding buildings when the initial criteria do not yield a total of 250 buildings. The rules also define the term “rehabilitation” for the purpose of implementing the authority under the law to exclude buildings from the AEP that are the subject of a rehabilitation loan made by HPD or the New York City Housing Development Corporation. The rules also exclude buildings that were formerly in the AEP and discharged in the past three years as a result of work performed by HPD.

“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.

(c) Beginning in the ninth year of the Alternative Enforcement Program, and in each succeeding year, the Department will use the following criteria to identify distressed buildings for participation in the program:

(1) The Department will identify no more than twenty-five multiple dwellings that contain less than six units for participation in the program. Such multiple dwellings 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 at least six but not more than fourteen 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.

(3) A multiple dwelling that contains fifteen 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)] (d) [For] Beginning in the ninth year of the Alternative Enforcement Program, and in each succeeding year, for purposes of identifying buildings for participation in the Alternative Enforcement Program, those buildings having the highest amount of paid and unpaid Emergency Repair Charges incurred within the [two-year] five-year period prior to such identification shall be selected first.

(e) Beginning in the ninth year of the Alternative Enforcement Program, and in each succeeding year, under the circumstances where the criteria set forth in subdivision (c) do not yield 250 buildings for participation in the program, the Department may apply the following criteria to select additional buildings for participation:

(1) A multiple dwelling that contains six 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 four or more such violations for every dwelling unit in the multiple dwelling;

and

(ii) For purposes of identifying additional buildings for participation in the Alternative Enforcement Program pursuant to this paragraph, those buildings having the highest number of open hazardous and immediately hazardous violations within the five-year period prior to such identification shall be selected first.

§ 2. Chapter 36 of title 28 of the rules of the City of New York is amended by adding a new section 36-06 to read as follows:

36-06. (a) For the purpose of excluding a building from the Alternative Enforcement Program pursuant to administrative code §27-2153(e)(2) on the basis that the building is the subject of a loan provided by or through the department or the New York City Housing Development Corporation for the purpose of rehabilitation, the term "rehabilitation" shall mean that the scope of work for the building under the loan includes a building-wide replacement of a major component of the building.

(b) The Department may exclude from the Alternative Enforcement Program any building that previously participated in the program and was discharged within the prior three years as a result of work completed by the Department.