

**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 new rules implementing Local Law # 18 of 2020, which requires installation of internet capable temperature reporting devices in certain multiple dwellings.

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 August 13, 2020.

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

<https://nychpd.webex.com/nychpd/j.php?MTID=m2268731e409125aa9c67db43bb284c08>

If prompted to provide a password or number, please enter the following: Meeting Number: 129 445 7457 Password: 8X3DgsWcqK4

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: 129 445 7457 Password (if requested): 8X3DgsWcqK4

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 August 12, 2020. 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 August 13, 2020.

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 August 1, 2020.

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"), Local Law #18 of 2020, and section 27-2090 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 -- they are promulgated as the result of new legislation.

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 implement Local Law #18 of 2020 (Administrative Code section 27-2033.1) which requires the installation of internet capable temperature reporting devices (heat sensors) in certain multiple dwellings with a history of heat violations and complaints. The heat sensors will be installed in and monitor the temperature in individual apartments. Owners and tenants with internet connection will have access to the heat sensors' data (tenants with no internet connection must receive data from the owner when requested).

Beginning on July 1, 2020, the Department of Housing Preservation and Development (HPD) will select 50 class A multiple dwellings every two years to participate in the heat sensor program. An owner whose building is selected will participate in the program for four years unless the building is discharged sooner as a result of not having been issued any heat violations in the immediately preceding heat season, or having demonstrated that permanent action has been taken to provide heat for the next heat season.

The proposed rules set forth the criteria under the law for the selection of the buildings, which include the number of heat violations issued to the building and the number of heat complaints received from occupants of more than one dwelling unit in the building during the previous two heat seasons. The proposed rules also exclude certain buildings that are already participating in other HPD programs that address heat violations and conditions in such buildings.

Owners of buildings selected for the program must notify all tenants regarding the requirement to install and maintain heat sensors. Tenants may refuse, in writing, to have a heat sensor placed in their apartment. Owners are required to keep records of such refusals, in addition to

maintaining other records prescribed by the law and rules. Owners must submit temperature records to HPD periodically, and provide this data to tenants upon request.

New material is underlined.

Section one. Title 28 of the rules of the city of New York is amended by adding a new Chapter 56 to read as follows:

Chapter 56

Internet Capable Temperature Reporting Devices

§ 56-01. Definitions. For purposes of this chapter, the following terms have the following meanings:

a. Heat Season. Heat season means the period of time beginning on October first of one year, and ending on May 31st of the following year.

b. Internet Capable Temperature Reporting Device. Internet Capable Temperature Reporting Device means a device that is capable of measuring the indoor air temperature not less than once per hour and recording such temperature, along with the date and time of such reading, for a period of time not less than the immediately preceding 90 days. Such device must be capable of making such information available through an ordinary internet connection or through other means when no such connection is present. Such information must be accessible to property owners and any tenant of the unit in which such device is placed.

§ 56-02. Criteria.

a. No later than July 1, 2020, and every two years thereafter, the department will select 50 class A multiple dwellings for installation by the owner of one Internet Capable Temperature Reporting Device in each dwelling unit in the selected multiple dwelling. The department will select such buildings using criteria, including, but not limited to the following:

(1) the multiple dwelling was issued violations of administrative code section 27-2029(a) or 27-2028 for each of the past two Heat Seasons as set forth in these rules; and

(2) the multiple dwelling has been the subject of a heat-related complaint from two or more distinct dwelling units in each of the last two heat seasons as set forth in these rules.

b. Notwithstanding the criteria set forth in subdivision a of this section, a multiple dwelling that is participating in the Alternative Enforcement Program pursuant to administrative code section 27-2153, or that has an Article 7A administrator appointed pursuant to real property actions and proceedings law article 7A, or that has been the subject of an in rem foreclosure judgment in favor of the city and was transferred by the city to a third party pursuant to administrative code section 11-421.1 within the prior five years, shall not be included among the multiple dwellings selected pursuant to subdivision a of this section.

c. For purposes of selecting 50 class A multiple dwellings for installation of Internet Capable Temperature Reporting Devices, such multiple dwellings having the greatest number of violations of sections 27-2029(a) and 27-2028 of the administrative code, and at least four violations of such sections for the past two Heat Seasons shall be selected. Where more than one multiple dwelling has the same number of violations and would result in more than 50

multiple dwellings being selected, the multiple dwellings with the highest percentage of dwelling units with heat-related complaints in the last two Heat Seasons shall be selected first.

§ 56-03. Notices.

a. The owner of a multiple dwelling that is selected pursuant to section 56-02 of these rules shall provide a notice to each dwelling unit as provided in Appendix A of these rules by mail or email regarding the requirements of this chapter and administrative code section 27-2033.1. Such notice shall be provided by such owner before August first following notification by the department of selection of the multiple dwelling. Such notice shall also be posted in the common area of the multiple dwelling within 15 days of notification to the owner by the department of selection for required installation of Internet Capable Reporting Devices.

§ 56-04. Installation.

a. Upon notification by the department of selection of a multiple dwelling for required installation of Internet Capable Reporting Devices, an owner must install one device in each dwelling unit in such multiple dwelling, except those units in which a tenant provides written refusal of installation of such device, or those units to which the owner is unable, after documented reasonable efforts, to obtain access to install such device. The Internet Capable Reporting Devices must be installed in accordance with the manufacturer's recommendation.

b. Such owner must complete such installation on or before October first of the year in which the notification from the department is received, and provide an affidavit of installation in a form required by the department on or before October first.

§ 56-05. Record Keeping.

a. An owner of a multiple dwelling selected for installation of Internet Capable Temperature Reporting Devices must maintain the following records while such dwelling is required to provide and maintain such devices, and for one additional year after the multiple dwelling is no longer subject to the installation requirement, and make such records available to the department upon request, consistent with applicable law:

(1) identification of each dwelling unit in which a device was installed;

(2) identification of each dwelling unit in which a device was not installed, including the reason for failure of installation;

(3) the date of each installation, identification of manufacturer of the device installed; and the individual serial number for each device installed including any device that is installed as a replacement;

(4) written refusal of installation of a device if the tenant refused such installation in writing;

(5) record of refusal or no response, if the tenant did not provide access or respond to the notification in writing required by section 56-03 of these rules, and, in the case of no response, a record of the reasonable efforts made to gain access to the unit to install the device; and

(6) temperature readings for each dwelling unit in which a device was installed, including hourly temperature, date, and time, for the entire time period that the multiple dwelling is participating in the program.

b. An owner must submit to the department all data readings from each Internet Capable Temperature Reporting Device installed in the multiple dwelling at least every 90 days, for as long as the multiple dwelling continues to be subject to the requirements of administrative code section 27-2033.1. The department will notify owners of selected buildings regarding submission of such data.

§ 56-06. Discharge.

a. An owner may apply to the department to have a multiple dwelling discharged from the requirement to install and maintain Internet Capable Temperature Reporting Devices in less than four years if no violations of administrative code sections 27-2028 or 27-2029(a) have been issued during the immediately preceding Heat Season, or the owner has demonstrated to the department's satisfaction that he or she has taken permanent action to address providing heat for the next Heat Season.

APPENDIX A
INSTALLATION OF INTERNET CAPABLE TEMPERATURE REPORTING DEVICES

Please be advised that _____ (address) has been selected by the City of New York Department of Housing Preservation and Development for participation in a program which requires installation of internet capable temperature reporting devices (heat sensors) in dwelling units in this building, under Administrative Code section 27-2033.1. The owner is required to install one heat sensor in each dwelling unit. The heat sensor will measure indoor air temperature and record the temperature, date, and time of the reading. This information will be available to tenants and to the owner through an internet connection. If you do not have an internet connection, and a heat sensor is installed in your unit, the owner will make the information from your unit available to you upon request.

You may refuse, *in writing*, to have a heat sensor installed in your unit (see form below).

You will not be charged for original installation of the heat sensor, or for replacement due to wear or malfunction. You will not be charged for a replacement if a prior tenant removed or damaged the heat sensor, or if the heat sensor becomes inoperable due to a manufacturing defect or improper installation. You should inform the owner within 30 days if the heat sensor becomes inoperable.

If the heat sensor is installed in your dwelling unit, you must not damage it, turn it off, or otherwise make it inoperable. If the heat sensor is stolen, removed, found missing, or is made inoperable by you during your lease term, the owner may replace the heat sensor and charge you a maximum of \$50.00 for its replacement.

Please complete the form below, and return it to the owner within ten days of receipt of this notice.

PLEASE CHECK **ONE**, SIGN, AND FILL IN THE INFORMATION REQUESTED BELOW. PLEASE RETURN THIS PART OF THE FORM WITHIN *TEN DAYS* TO THE OWNER/MANAGING AGENT AS DIRECTED BELOW, AND KEEP A COPY FOR YOUR RECORDS.

- I DO NOT want an internet capable temperature reporting device installed in my unit;
OR
- I DO want an internet capable temperature reporting device installed in my unit.

TENANT SIGNATURE: _____ Date: _____

PRINT TENANT'S NAME, ADDRESS, AND APARTMENT NUMBER:

RETURN THIS FORM TO:

OWNER/MANAGING AGENT NAME: _____

ADDRESS: _____

**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: Implementation of Local Law 18 of 2020, which requires installation of internet-capable temperature reporting devices in certain multiple dwellings

REFERENCE NUMBER: HPD-67

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

March 31, 2020
Date

**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: Implementation of Local Law 18 of 2020, which requires installation of internet-capable temperature reporting devices in certain multiple dwellings

REFERENCE NUMBER: 2020 RG 017

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: March 31, 2020