

Notice of Adoption of Amendments
to Chapter 10 of Title 68 of the Rules of the City of New York and of Chapter 60 of Title 28 of
the Rules of the City of New York

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Commissioner of the New York City Human Resources Administration (HRA) pursuant to Section 603 of the New York City Charter and in the Commissioner of the Department of Housing Preservation (HPD) and Development pursuant to Section 1802 of the Charter, and in accordance with the requirements of Section 1043 of the New York City Charter, that HRA and HPD have adopted the above final rule.

This rule was published as a proposed rule in the City Record on August 15, 2023 and a public hearing was held on September 15, 2023. HRA and HPD received and reviewed comments submitted.

Statement of Basis and Purpose

These rules establish a pilot program – to be codified in Subchapter C of Chapter 10 of Title 68 – that aims to facilitate CityFHEPS voucher-holders finding safe and sanitary apartments.

New York City faces a severe housing shortage. The dearth of available apartments is particularly acute in the most affordable housing, with less than one percent of apartments with asking monthly rents below \$1,500 available. As outlined in the City’s plan to prevent homelessness, “Housing Our Neighbors: A Blueprint for Housing and Homelessness,” the City has committed to getting New Yorkers into safe, high-quality affordable homes. The “Unlocking Doors” initiative, as set forth in this rule, will help accomplish this goal by providing grants to reimburse owners for the costs of rehabilitating rent stabilized dwellings in need of repair, on the condition that the rehabilitated units are leased to New Yorkers experiencing homelessness who have CityFHEPS vouchers. These reimbursement grants will help reduce the number of chronically vacant, low-rent apartments and thereby increase the availability of desperately needed safe and affordable housing. They will facilitate CityFHEPS voucher-holders moving out of shelter and into permanent housing.

This pilot program will focus on the small number of rent stabilized apartments that are chronically vacant and need significant repairs in order to become safe and habitable. A unit that is eligible for this reimbursement grant program must: (1) be rent stabilized; (2) be vacant in both 2022 and 2023; and (3) have a legal rent below the applicable specified threshold. In order to receive a reimbursement grant, an applicant will need to first submit construction cost estimates to HPD for pre-approval. HPD will certify that the unit meets certain eligibility criteria and that the cost estimates are consistent with its schedule of maximum cost allowances for work items that are eligible for reimbursement. After receiving a preliminary certificate of eligibility from HPD, the owner will have six months to complete construction, after which the subject dwelling unit must pass a safety and habitability assessment. The unit must also be in compliance with the lead-based paint inspection requirements of section 27-2056.4(a-1) of the Administrative Code. Upon a successful inspection, HRA will work with the owner to lease the subject dwelling unit to an eligible household and will pay the final repair amount approved by HPD, up to a maximum of \$25,000 for each such dwelling unit – an amount that reflects the funding currently available for this pilot program.

This new reimbursement grant program will be jointly administered by the Human Resources Administration and the Department of Housing Preservation and Development.

Sections 603, 1802, and 1043 of the City Charter authorize HRA and HPD to promulgate these rules, and Sections 34, 56, 61, 62, 77, and 131-a of the New York Social Services Law authorize HRA to promulgate these rules.

New material is underlined.
Deleted material is [bracketed].

Section 1. Subdivision (f) of section 10-01 of Chapter 10 of Title 68 of the Rules of the City of New York is amended to read as follows:

(f) "**CityFHEPS**" or "**the CityFHEPS Program**", when used in Subchapter A of this chapter, means the program described in Subchapter A, unless otherwise specified. When used in Subchapter B of this chapter, "CityFHEPS" or "the CityFHEPS Program" means the program described in Subchapter B, unless otherwise specified. When used in Subchapter C of this chapter, "CityFHEPS" or "the CityFHEPS Program" means the program described in Subchapter C, unless otherwise specified.

§ 2. Section 10-01 of Chapter 10 of Title 68 of the Rules of the City of New York is amended by adding new definitions to be inserted in alphabetical order and to read as follows:

"CityFHEPS Subchapter C administering agencies" means DSS and HPD.

"HPD" means the New York City Department of Housing Preservation and Development.

"Subchapter C unit" means a unit designated by the CityFHEPS Subchapter C administering agencies as a unit towards which CityFHEPS rental assistance payments and a Subchapter C unit repair grant may be applied pursuant to Subchapter C of this chapter.

"Subchapter C unit repair grant" means a reimbursement grant issued to an owner pursuant to Subchapter C of this chapter and Chapter 60 of Title 28 of the Rules of the City of New York.

§ 3. Section 10-02 of Chapter 10 of Title 68 of the Rules of the City of New York is amended to read as follows:

§ 10-02 Administration of the CityFHEPS Programs.

HRA will administer the CityFHEPS Programs and will make eligibility determinations in accordance with this chapter. The CityFHEPS Programs will consist of [two] three programs: the tenant-based rental assistance program described in Subchapter A, [and] the project-based rental assistance program described in Subchapter B, and the unit repair program described in Subchapter C. The tenant-based program provides rental assistance for eligible households to use in any unit of their choosing that meets program requirements. The project-based program

provides rental assistance to eligible households that is tied to specific units designated by HRA as Subchapter B units. The unit repair program is a pilot program that will exist only so long as sufficient funds are available for its administration and will allow a limited number of landlords who meet the requirements set forth in Subchapter C of this chapter and Chapter 60 of Title 28 of the Rules of the City of New York to receive reimbursement for necessary repairs to vacant, rent stabilized units, provided that such units are rented to households with a tenant-based CityFHEPS rental assistance voucher.

§ 4. Chapter 10 of Title 68 of the Rules of the City of New York is amended by adding a new Subchapter C to read as follows:

Subchapter C: CityFHEPS – Rent Stabilized Unit Repair Program

§ 10-24 Subchapter C Units.

(a) To be eligible to receive a Subchapter C unit repair grant, a dwelling unit must meet the following criteria:

(1) The unit must be located in New York City and be rent stabilized pursuant to the rent stabilization law of 1969, the rent stabilization code, the emergency tenant protection act of 1974, or any successor statute or regulation addressing substantially the same subject matter;

(2) The unit must be vacant at the time of application for a preliminary certificate of eligibility pursuant to Chapter 60 of Title 28 of the Rules of the City of New York, and must have been timely registered as vacant in its 2022 and 2023 annual rent registrations with the New York State Division of Housing and Community Renewal; and

(3) The legal rent for the unit must be timely registered during the April 1 to July 31 filing period for both the 2022 and 2023 annual rent registrations filed with the New York State Division of Housing and Community Renewal, and must be at or below the following thresholds:

(A) \$1200 for a dwelling unit with up to one bedroom;

(B) \$1300 for a dwelling unit with two bedrooms; and

(C) \$1400 for a dwelling unit with three or more bedrooms.

(b) No more than three dwelling units in a multiple dwelling may be designated as Subchapter C units.

(c) DSS will issue a Subchapter C Unit Repair Grant to the owner of a dwelling unit once such owner has (i) received a final certificate of eligibility from HPD in accordance with the

requirements of Chapter 60 of Title 28 of the Rules of the City of New York and (ii) complied with subdivision (b) of section 10-25 of this chapter.

(d) Applications for participation in CityFHEPS Program will be considered on a first-come, first-served basis.

(e) The Subchapter C Unit Repair Grant will not exceed \$25,000 per dwelling unit.

(f) The CityFHEPS Program pilot is subject to the availability of funding.

§ 10-25 Owner Obligations.

(a) A preliminary certificate of eligibility and a final certificate of eligibility will be issued in accordance with the requirements of Chapter 60 of Title 28 of the Rules of the City of New York. An owner has six months from the date of issuance of the preliminary certificate of eligibility to complete repairs outlined in the application. Reimbursement for repairs will be limited to the amounts listed in the certified reasonable cost schedule, as such term is defined in Chapter 60 of Title 28 of the Rules of the City of New York.

(b) After receipt of a final certificate of eligibility from HPD, an owner must enter into a one- or two-year lease, at the option of the tenant, with a household in possession of a shopping letter.

§ 10-26 Calculation of the CityFHEPS Subchapter C Rental Assistance Payment Amount and Subchapter C Unit Repair Grant.

(a) The monthly CityFHEPS rental assistance payment amount on behalf of a household will be calculated pursuant to subdivisions (a) and (b) of section 10-06 of this chapter using the lower of (i) the maximum monthly rents set forth in subdivision (a) of section 10-05 of this chapter or (ii) the applicable rent set forth in the annual rent registration with the New York State Division of Housing and Community Renewal.

(b) Except as provided in section 10-20 of this chapter, a household's CityFHEPS rental assistance payments will not change until renewal, regardless of changes in household composition, income, the maximum monthly rent, or the actual rent for the Subchapter C unit.

(c) Once the owner has complied with section 10-25 of this chapter, such owner of such unit will be issued payments as follows:

(1) HRA will provide the owner with a Subchapter C Unit Repair Grant in the amount listed in HPD's final certificate of eligibility, provided that such amount shall not exceed \$25,000 for such dwelling unit.

(2) HRA will pay the first month's rent in full plus the CityFHEPS rental assistance payments for the next three months. Notwithstanding the foregoing, HRA will accommodate any request by the landlord to receive only the first month's rent upfront.

(d) After making the payments described in subdivision (d) of section 10-06 of this chapter and paragraph (1) of subdivision (c) of this section, HRA will pay the CityFHEPS rental assistance payments directly to the owner each month as long as the household remains eligible and funding for such payments remains available, except that HRA may in its discretion pay

additional months of CityFHEPS rental assistance payments in advance where needed to address the goals set forth in the plan entitled Turning the Tide on Homelessness in New York City.

§ 10-27 Additional Subchapter C Provisions.

To lease a Subchapter C Unit, a household must meet the requirements set forth in section 10-04 of this chapter, except that the household must have a lease for a term of one or two years, at the option of the tenant, for a residence in New York City that has passed a safety and habitability assessment by the CityFHEPS Subchapter C administering agencies pursuant to paragraph 4 of subdivision (c) of section 60-02 of Title 28 of the Rules of the City of New York.

§ 5. Title 28 of the Rules of the City of New York is amended by adding a new Chapter 60 to read as follows:

Chapter 60
CityFHEPS Rent Stabilized Unit Repair Program

§ 60-01 Scope, Construction, Definitions.

(a) Scope of rules. This chapter, in conjunction with Subchapter C of Chapter 10 of Title 68 of the Rules of the City of New York, sets forth and governs a reimbursement grant program for certain construction on certain dwelling units in the City of New York.

(b) Construction. This chapter is to be construed in conjunction with and in a manner consistent with Subchapter C of Chapter 10 of Title 68 of the Rules of the City of New York.

(c) Definitions. As used in this chapter, the following terms have the following meanings. Capitalized terms not specifically defined in this chapter have the meanings set forth in Chapter 10 of Title 68 of the Rules of the City of New York.

BLDS. "BLDS" means HPD's Division of Building and Land Development Services or any successor unit.

Certificate of Occupancy. "Certificate of Occupancy" means a certificate of occupancy that is issued by the Department of Buildings of the City of New York with respect to a Class A multiple dwelling unit.

Certified Reasonable Cost Schedule. "Certified reasonable cost schedule" means a table providing maximum dollar limits for specified alterations, established and updated, as necessary, by HPD.

Department of Buildings. "Department of Buildings" means the Department of Buildings of the City of New York.

DSS. "DSS" means the Department of Social Services of the City of New York.

Eligible Construction. "Eligible construction" means alterations to a dwelling unit that are identified on the Certified Reasonable Cost Schedule and that are commenced on or after April 19, 2023.

HPD. "HPD" means the Department of Housing Preservation and Development of the City of New York.

RCNY. "RCNY" means the Rules of the City of New York.

§ 60-02 Application Procedure and Documentation.

a. All applications must be submitted to HPD in a form and manner approved by the CityFHEPS Subchapter C Administering Agencies. Only applications complete in all detail will be considered.

b. Preliminary Certificate of Eligibility.

1. A dwelling unit that meets the requirements set forth in subdivisions a and b of section 10-24 of Subchapter C of Chapter 10 of Title 68 of the RCNY may be eligible for a preliminary certificate of eligibility to be designated a Subchapter C Unit. An application for such preliminary certificate of eligibility must be submitted prior to the completion of Eligible Construction.

2. Such application for a preliminary certificate of eligibility must include a sworn statement by the applicant (i) describing the Eligible Construction for which a Subchapter C Unit Repair Grant will be claimed, (ii) estimating the cost of such Eligible Construction, and (iii) affirming that the subject dwelling unit meets the criteria pursuant to subdivisions a and b of section 10-24 of Title 68 of the RCNY.

3. HPD will notify such applicant of any deficiencies in such application in a single checklist. Such applicant must correct all such deficiencies within fourteen calendar days of the date of issuance of such notification. Failure to do so will result in a determination of ineligibility.

4. Upon approval of an application for a preliminary certificate of eligibility, HPD will issue a preliminary certificate of eligibility to the applicant and concurrently provide a copy directly to DSS.

5. Upon making a determination of ineligibility concerning an application, HPD will issue a letter notifying the applicant of such determination. An applicant who has been issued a determination of ineligibility may file a new application for a preliminary certificate of eligibility for the same dwelling unit. Such new application will be considered in the order in which it is received.

c. Application for a Final Certificate of Eligibility.

1. An application for a final certificate of eligibility to be designated a Subchapter C Unit must be submitted after completion of Eligible Construction.

2. All applications for a final certificate of eligibility must include the following documentation:

(A) Documentation of the applicant's claimed costs and actual expenditures, properly organized and collated in time sequence; and

(B) Proof of completion of Eligible Construction within six months of the date of issuance of the preliminary certificate of eligibility:

(i) A Certificate of Occupancy for the subject dwelling unit; or

(ii) A sign-off by the Department of Buildings as evidenced by such official documentation as may be required by the Department of Buildings, and is acceptable to HPD, if issued in connection with Eligible Construction; or

(iii) If none of the above is required by law, an affidavit from a registered architect or a licensed professional engineer, along with such other information as may be required by HPD, including, but not limited to, an affidavit from the owner, a copy of the work contracts, invoices, cancelled checks or such other proof of payment as HPD shall require, and a contractor's affidavit, which confirm completion of Eligible Construction within six months of the date of issuance of the preliminary certificate of eligibility to the satisfaction of HPD.

(C) Proof that the unit is in compliance with the lead-based paint investigation requirement of subdivision a-1 of section 27-2056.4 of the administrative code of the city of New York and the turnover requirements of section 27-2056.8 of such code.

3. HPD will notify the applicant of any deficiencies in the application for a final certificate of eligibility in a single checklist. The applicant must correct all such deficiencies within 20 calendar days of the date of issuance of such notification. Failure to do so will result in a determination of ineligibility.

4. BLDS Inspection. Upon satisfactory completion of HPD's review of an application for a final certificate of eligibility, BLDS will conduct a safety and habitability assessment of the unit and of the building in which it is located. HPD will notify the applicant of any deficiencies found in such inspection in a single checklist, and the applicant must correct all such deficiencies and request a re-inspection by BLDS no more than 14 calendar days of the date of issuance of such notification. Failure to do so will result in a determination of ineligibility for such application.

5. After a dwelling unit has passed the BLDS Inspection, HPD will issue a final certificate of eligibility to the applicant and concurrently provide a copy directly to DSS. Such certificate will list the certified reasonable cost of the Eligible Construction; provided that such amount may not exceed \$25,000 for such dwelling unit.

§ 60-03 Certified Reasonable Cost Schedule. HPD will publish a Certified Reasonable Cost Schedule on its website, setting forth the maximum reimbursement limits on Eligible Construction based on analysis of the RSMMeans database or similar database of construction costs.