

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 amendments to Chapter 56 of Title 28 of the Rules of the City of New York, concerning Internet Capable Temperature Reporting Devices. The proposed rules reflect amendments made by Local Law 70 of 2023 to Administrative Code section 27-2033.1 regarding the requirements for the installation and maintenance of Internet Capable Temperature Reporting Devices in dwelling units of select class A multiple dwellings.

**When and where is the hearing?** HPD will hold a public hearing on the proposed rules. The public hearing will take place virtually on **March 28, 2024** from 10 AM to 11 AM.

To participate in the public hearing, enter the Webex URL:  
**<https://nychpd.webex.com/nychpd/j.php?MTID=m173fd4e481a17cc3dc52172f8f25d5c2>**

If prompted to provide a password or number, please enter the following:

Meeting number: **2336 139 4410**

Password: **uJhUvYT9p46**

You may also join via audio device or dial in via phone:

Join by video system: **23361394410@webex.com**

Dial

You can also dial **173.243.2.68** and enter your meeting number.

To dial in by phone, please use the following dial-in phone number and participant access code:

United States Toll (New York City) **+1-646-992-2010**

United States Toll **+1-408-418-9388**

Access code: **2336 139 4410**

Password if requested: **uJhUvYT9p46**

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](mailto:rules@hpd.nyc.gov).
- Mail. You can mail comments to Associate Commissioner Joshua Cucchiaro, Department of Housing Preservation and Development, 100 Gold Street, Room 5-Z7, New York, N.Y. 10038.
- Fax. You can fax comments to Associate Commissioner Joshua Cucchiaro at 212 863-8763.
- 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 212 863-8340 or by emailing [wallaca@hpd.nyc.gov](mailto:wallaca@hpd.nyc.gov) before **5:00 PM on March 27, 2024**. Although you can indicate during the hearing that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

**Is there a deadline to submit comments?** The deadline for submission of comments is **March 28, 2024**.

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 or by email at [wallaca@hpd.nyc.gov](mailto:wallaca@hpd.nyc.gov). You may also tell us by telephone at 212 863-8340. We request advance notice so that we have sufficient time to arrange the accommodation. Please tell us by **March 8, 2024**. This hearing has the following accessibility options available: Simultaneous transcription for people who are deaf or hard of hearing and audio-only access.

**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 <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 at the Office of Legal Affairs, 100 Gold Street, Fifth Floor, New York, N.Y. 10038.

**What authorizes HPD to make these rules?** Sections 1043 and 1802 of the New York City Charter ("City Charter") and section 27-2033.1 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 because they were not anticipated.

**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 comply with 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

Administrative Code section 27-2033.1, which was added by Local Law 18 for the year 2020, requires the Department of Housing Preservation and Development (“HPD”) to select 50 class A multiple dwellings where the owner is required to install an internet capable temperature reporting device (“device”) in each dwelling unit of the selected building for a period of four years. The 50 buildings are to be selected based on criteria that include, but need not be limited to, the number of violations of subdivision a of section 27-2029 of the Administrative Code issued over the preceding two years and whether HPD has received heat complaints from more than one dwelling unit in such building. For buildings selected to install devices, HPD is required to conduct regular inspections of such buildings to confirm compliance with the installation and maintenance requirements for the devices, provision of a central heating system and the maintenance of required minimum temperatures. The rationale for this requirement is to provide an enhanced and proactive mode of enforcement to promote compliance with the City’s minimum heating requirements in those buildings that have a demonstrated history of noncompliance with these requirements.

In 2023, the City Council enacted Local Law 70 of 2023, which amended section 27-2033.1 to require the selection of the 50 buildings every year, beginning on July 1, 2024, rather than every two years, and amended inspection protocols so that the HPD inspections occur at least twice each month, rather than at least every two weeks. Local Law 70 also made a number of other amendments, which are reflected in these proposed rules.

Specifically, the law and proposed rule amendments provide the following: require that HPD’s inspections confirm that the devices are installed; allow HPD to suspend proactive inspections as of January 31 in a heat season based on amended criteria; allow HPD to set a fee for any monitoring inspection conducted pursuant to Administrative Code Section 27-2033.1(b)(2) after January 31 for the rest of the same heat season; allow the tenant the choice of which living room within the dwelling unit that the device will be installed; mandate that owners of selected buildings submit a report to HPD during each 30-day period within the heat season which includes data collected from each device installed within the selected building; require that HPD post a sign in each of the designated citywide languages in a prominent location in each selected building that notifies tenants of the requirements of Administrative Code section 27-2033.1; and provide criteria under which a selected building may be discharged from the requirements of section 27-2033.1, at the end of a particular heat season, but, earlier than the required four years. The proposed rule amendments also provide an option for property owners to pay a penalty to satisfy violations that were issued pursuant to Administrative Code section 27-2033.1 but which were not corrected at the time the building was eligible for discharge.

Section 1. Subdivision a of section 56-02 of Chapter 56 of Title 28 of the rules of the city of New York is amended to read as follows:

### §56-02 Criteria.

a. No later than July 1, [2020] 2024, and every [two years] year 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.

§2. Section 56-03 of Chapter 56 of Title 28 of the rules of the city of New York is amended to read as follows:

§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, including installation of such devices, instructions on how to access the information collected by such devices, the tenant's right of refusal, and the tenant's right to request that such device be installed in a living room of the tenant's choice within the dwelling in accordance with subparagraph (b) of paragraph 3 of subdivision b of administrative code section 27-2033.1 and section 56-04 of these rules. 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 Temperature Reporting Devices.

b. Upon selection of a multiple dwelling pursuant to section 56-02 of these rules, the department shall post a notice in each of the designated citywide languages in administrative code section 23-1101 in a prominent place of such multiple dwelling, notifying tenants of the requirements of this section, a tenant's option to refuse the installation of such device in their dwelling unit, the requirement of twice monthly inspections by the department, and a tenant's option to call 311 to file a complaint relating to inadequate heat and to check the department's website for the issuance of heat violations. The department shall monitor that such notice is posted throughout the time period that such multiple dwelling is subject to inspection by the department pursuant to paragraph 2 of subdivision b of administrative code section 27-2033.1.

§3. Subdivision a of section 56-04 of Chapter 56 of Title 28 of the rules of the city of New York is amended to read as follows:

§56-04 Installation.

a. Upon notification by the department of selection of a multiple dwelling for required installation of Internet Capable Temperature Reporting Devices, an owner must install one device in one living room of the tenant's choice 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 Temperature Reporting Devices must be installed in accordance with the manufacturer's recommendation.

§4. Subdivision b of section 56-05 of Chapter 56 of Title 28 of the rules of the city of New York is amended to read as follows:

§56-05 Record Keeping.

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] An owner of a multiple dwelling selected pursuant to section 56-02 of these rules

shall submit to the department, at least once during each 30-day period during the heat season for the time period that the multiple dwelling is subject to the requirements of this chapter and of administrative code section 27-2033.1, data collected from the Internet Capable Temperature Reporting Devices installed in such multiple dwelling pursuant to section 56-04 of these rules. This requirement shall not apply where the tenant has opted out of installation of such Internet Capable Temperature Reporting Device pursuant to paragraph 7 of subdivision b of administrative code section 27-2033.1 and the property owner has submitted an affidavit indicating that all efforts were made to obtain approval from the tenant for installation.

§5. Section 56-06 of Chapter 56 of Title 28 of the rules of the city of New York is renumbered section 56-08, and a new section 56-06 is added to read as follows:

§56-06 Inspection.

a. Annually, for the duration of heat season, the department shall conduct inspections of each class A multiple dwelling selected pursuant to section 56-02 of these rules at least twice each month, without receipt of complaints, for compliance with the requirements of sections 27-2033.1 and 27-2028 and subdivision a of section 27-2029 of the administrative code.

b. In the course of such inspections, the department shall also inspect to ensure the device is installed in accordance with section 56-04 of these rules and subparagraph (b) of paragraph 3 of subdivision b of section 27-2033.1 of the administrative code.

c. The department may discontinue such inspections in such class A multiple dwelling, provided that there are no open violations of paragraph 3 of subdivision b of section 27-2033.1 of the administrative code as of January 31 in such heat season and no violations of section 27-2028 or subdivision a of section 27-2029 of the administrative code were issued since October 1 of such heat season.

§6. Chapter 56 of Title 28 of the rules of the city of New York is amended by adding a new section 56-07, to read as follows:

§56-07 Fees.

An owner of a multiple dwelling selected for installation of Internet Capable Temperature Reporting Devices shall be subject to a fee of \$200 for each inspection conducted pursuant to subdivision a of section 56-06 of these rules after January 31 for the remainder of such heat season for any year that such multiple dwelling is subject to requirements of this chapter and of administrative code section 27-2033.1.

§7. Section 56-08 of Chapter 56 of Title 28 of the rules of the city of New York, as renumbered by these rules, is amended to read as follows:

§56-08 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] as follows:

(a) A class A multiple dwelling shall be discharged from the requirements of this chapter and administrative code section 27-2033.1 at the end of the heat season, provided that the owner of

such multiple dwelling (i) has complied with the requirements of this chapter and of administrative code section 27-2033.1 to install and, as appropriate, replace, an Internet Capable Temperature Reporting Device in each dwelling unit, (ii) has not been issued a notice of violation of administrative code section 27-2028 or subdivision a of administrative code section 27-2029 during such heat season, (iii) has supplied all requested records required to be maintained pursuant to section 56-05 of these rules, and (iv) is currently registered with the department in accordance with administrative code section 27-2097; or

(b) An owner of a multiple dwelling selected pursuant to section 56-02 of these rules who has not complied with the requirements of paragraph 3 of subdivision b of administrative code section 27-2033.1 but is otherwise eligible for discharge pursuant to subparagraph (a) of paragraph 8 of subdivision b of administrative code section 27-2033.1 and subdivision a of this section may be discharged from the requirements of this chapter and of administrative code section 27-2033.1 upon payment of a penalty of \$500 for each violation of this chapter or administrative code section 27-2033.1 issued by the department.

§8. Chapter 56 of Title 28 of the rules of the city of New York is amended by adding a new section 56-09, to read as follows:

§56-09 Post-Discharge Resolution of Violations

Where violations remain pending after a multiple dwelling is no longer subject to the requirements of paragraph 3 of subdivision b of administrative code section 27-2033.1, an owner may resolve such violations by paying \$500 for each such pending violation, provided that the owner can demonstrate either that no heat violations were issued during at least one complete heat season or that Internet Capable Temperature Reporting Devices were installed in accordance with section 56-04 of these rules and subparagraph b of paragraph 3 of subdivision b of administrative code section 27-2033.1.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Rules Relating to Installation of Internet Capable  
Temperature Reporting Devices in Certain Multiple Dwellings**

**REFERENCE NUMBER: HPD-91**

**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

February 7, 2024  
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:** Amendment of Rules Relating to Installation of Internet Capable Temperature Reporting Devices in Certain Multiple Dwellings

**REFERENCE NUMBER:** 2023 RG 095

**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  
Senior Counsel

Date: February 7, 2024

