

**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 Department of Housing Preservation and Development (HPD) by New York City Charter §§1043 and 1802, New York City Administrative Code section 27-2005(f) and by Local Law 153 for the year 2016, HPD hereby adopts rules governing the information that should be provided on notices informing tenants of procedures to be followed in the event of a suspected gas leak and additionally adopts amendments to its rules governing smoke detecting devices and carbon monoxide alarms in order to clarify what records must be kept by owners for smoke detecting devices and carbon monoxide alarms. The proposed rule was published in the City Record on July 3, 2017. A public hearing was held on August 7, 2017.

Statement of Basis and Purpose

This rule implements legislative amendments to Administrative Code §27-2005, through which owners are required to provide notice to tenants, on a form approved by HPD, of the procedures that should be followed when a gas leak is suspected. The rule is intended to make clear to owners the information that should be provided on notices informing tenants of procedures to be followed in the event of a suspected gas leak and includes sample forms that may be used by owners for such purpose. Additionally, the rule clarifies what records must be kept by owners for smoke detecting devices and carbon monoxide alarms. The rule also includes minor plain language revisions.

HPD's authority for these rules is found in sections 1043 and 1802 of the New York City Charter and section 27-2005(f) of the Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“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.

Section 1. Section 12-01 of Chapter 12 of Title 28 of the Rules of the City of New York is amended by revising subdivision (b), adding a new subdivision (d), and revising what was previously subdivision (f), and is now subdivision (g), to read as follows:

(b) Post a notice in a form approved by the Commissioner of the Department of Housing Preservation and Development (“HPD” or “the Department”) in a common area of the building, readily visible and preferably in the area of the inspection certificate, informing the occupants of such building that the owner is required by law to install one or more approved and operational

smoke detecting devices in each dwelling unit in the building and to periodically replace such devices upon the expiration of their useful life in accordance with article 312 of chapter 3 of title 28 of the administrative code of the city of New York, and that each occupant is responsible for the maintenance and repair of such devices and for replacing any or all such devices which are stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit with a device meeting the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York. In addition, the notice should state that the occupant of a dwelling unit in which a battery-operated smoke detecting device is provided and installed shall reimburse the owner a maximum of twenty-five dollars or a maximum of fifty dollars where a combined smoke and carbon monoxide detecting device is installed, for the cost of providing and installing each such device. The occupant shall have one year from the date of installation to make such reimbursement. A sample of an approved notice is [attached and] made part of these regulations in 28 RCNY § 12-04 and may also be found on HPD's website at www.nyc.gov/HPD.

(c) The notice in § 12-01(b) above:

- (1) shall have letters not less than three-sixteenths of an inch in height;
- (2) the lettering of the notice shall be of bold type and shall be properly spaced to provide good legibility and the background shall be of contrasting colors;
- (3) the notice shall be durable and shall be substantially secured to the common area where posted;
- (4) the notice shall be of metal, plastic, or decal;
- (5) lighting shall be sufficient to make the notice easily legible.

(d) For the notice required by subdivisions (b) and (c) of this section, an owner may in lieu of such otherwise required notice instead choose to post a single notice that incorporates and complies with subdivisions (b) and (c) of this section as well as the provisions of 28 RCNY § 12-06(b) and 28 RCNY § 12-11(b). A sample of an approved single notice, the language of which may be used for compliance with this subdivision, is made part of these regulations in 28 RCNY § 12-12.1 and may also be found on HPD's website at www.nyc.gov/HPD.

[(d)] (e) Replace any smoke detecting device which has been stolen, removed, missing or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant prior to the commencement of a new occupancy of a dwelling unit with a device meeting the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York.

[(e)] (f) Replace within thirty calendar days after the receipt of written notice any such device which becomes inoperable within one year of the installation of such device and through no fault of the occupant of the dwelling unit.

[(f)] (g) Keep the following records, on the premises [unless specifically exempted] or in the business office of the managing agent or owner, relating to the installation and maintenance of smoke detecting devices in the building:

- (1) date notice posted pursuant to § 12-01(b) of this chapter;
- (2) date of installation of each smoke detecting device and other records showing that the device installed meets the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York, including the manufacturer's suggested useful life of each device;
- (3) whether the smoke detecting device receives its primary power from the building wiring or whether it is a battery-operated device;
- (4) apartment number and location within apartment where device installed;
- [(5)] date device tested to see if it is in operable condition;]

[(6)] (5) records showing that maintenance work performed on each device has met the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York;

[(7)] (6) date tenant requested replacement/repair[;].

[(8)] (7) [file a certification of satisfactory installation within 10 days after completion with the Department of Housing Preservation and Development, Borough Division of Code Enforcement. This certification shall be set forth on a form available at the HPD Borough Office.] These records must be made available to the Commissioner of the Department of Housing Preservation and Development upon request.

§ 2. Subdivision (d) of Section 12-03 of Chapter 12 of Title 28 of the Rules of the City of New York is amended to read as follows:

(d) Keep the following records, on the premises [unless specifically exempted] or in the business office of the managing agent or owner, relating to the installation and maintenance of smoke detecting devices in the buildings:

(1) date of installation of each smoke detecting device and other records showing that the device installed meets the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York, including the manufacturer's suggested useful life of each device;

(2) whether the smoke detecting device receives its primary power from the building wiring or whether it is a battery operated device or in the alternative whether it is a line operated zoned smoke detecting system with central annunciation and central tie-in for all public corridors and public spaces;

(3) room number and location within room where each smoke detecting device is installed;

[(4) date device was tested to see if in operable condition;]

[(5)] (4) records showing that maintenance performed on each device has met the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York. [;]

[(6) file a certification of satisfactory installation within 10 days after completion with the Department of Housing Preservation and Development, Borough Division of Code Enforcement. This certification shall be set forth on a form available at the HPD Borough Office.] These records must be made available to the Commissioner of the Department of Housing Preservation and Development upon request.

§ 3. Section 12-04 of Chapter 12 of Title 28 of the Rules of the City of New York is amended to read as follows:

§ 12-04 Form for Records or Smoke Detecting Devices.

A sample notice as required by § 12-01(b) of these rules follows:

NOTICE

The [owner, _____
of this building located at _____
is required by law to post this notice advising tenants that the owner is required by] law requires

the owner of the premises to provide and install one or more approved and operational smoke detectors in each apartment in this building and to periodically replace such devices upon the expiration of their useful life in accordance with article 312 of chapter 3 of title 28 of the New York City Administrative Code. The [law further makes the] tenant of each apartment is responsible for the maintenance and repair of the detectors installed in the apartment and for replacing any or all detectors which are stolen, removed, missing or become inoperable during the occupancy of the apartment with a device meeting the requirements of article 312 of chapter 3 of title 28 of the Administrative Code, unless a detector becomes inoperable within one year of being installed due to a manufacturing defect. The [law also provides that the] tenant of each [Class A] apartment in th[e] is building in which a battery-operated smoke detector is provided and installed shall pay the owner a maximum of twenty-five dollars or a maximum of fifty dollars where a combined smoke and carbon monoxide detecting device is installed for the cost of providing and installing each detector. The tenant has one (1) year from the date of installation to make such payment to the owner.

§ 4. Subdivisions (b), (f) and (g) of Section 12-06 of Chapter 12 of Title 28 of the Rules of the City of New York are amended to read as follows:

(b) Post a notice in a form approved by the Commissioner of the Department of Housing Preservation and Development ("HPD" or "the Department") in a common area of a Class A multiple dwelling, readily visible and preferably in the area of the inspection certificate informing the occupants of such building that:

(1) the owner is required by law to install one or more approved and operational CO alarm in each dwelling unit in the building within 15 feet of the primary entrance to each room lawfully used for sleeping purposes and to periodically replace such devices as necessary in accordance with article 12 of chapter 3 of title 28 of the administrative code;

(2) each occupant is responsible for the maintenance and repair of such alarms and for replacing any or all such alarms that are stolen, removed, missing, or rendered inoperable during the occupancy of such dwelling unit; and

(3) the occupant of a dwelling unit in which a CO alarm is newly installed or in which a CO alarm is installed by the owner as a result of such occupant's failure to maintain such alarm or where such alarm has been lost or damaged by such occupant, or where such alarm is replaced upon the expiration of its useful life pursuant to article 12 of chapter 3 of title 28 of the New York city administrative code, shall reimburse the owner in the amount of \$25.00 per device for the cost of such work, or a maximum of \$50.00 per device where a combined smoke and carbon monoxide detecting device is installed, and such occupant shall have one year from the date of installation to make such reimbursement.

(4) A sample of an approved notice that may be used for CO alarms is made part of these regulations in 28 RCNY § 12-10 and may also be found on HPD's website at www.nyc.gov/HPD.

[(4)] (5) For the notice otherwise required by this provision, [A]an owner may in lieu of such notice, instead choose to post a single notice that incorporates and complies with this provision as well as the provisions of 28 RCNY § 12-01(b) and (c) and 28 RCNY § 12-11(b). A sample of an approved single notice, the language of which may be used for compliance with this subdivision, is made part of these regulations in 28 RCNY § 12-12.1 and may also be found on HPD's website at www.nyc.gov/HPD.

[(5)] (6) The notice required by this subdivision shall conform with the following requirements:

(i) the notice shall have letters not less than three-sixteenths of an inch in height;

(ii) the lettering of the notice shall be of bold type and shall be properly spaced to provide good legibility and the background shall be of contrasting colors;

(iii) the notice shall be durable and shall be substantially secured to the common area where posted;

(iv) the notice shall be of metal, plastic, or decal;

(v) lighting shall be sufficient to make the notice easily legible; and

(c) Replace any CO alarm that has been stolen, removed, found missing, or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant before the commencement of a new occupancy of the dwelling unit and replace such alarm upon the expiration of its useful life pursuant to article 12 of chapter 3 of title 28 of the New York city administrative code;

(d) Replace within 30 calendar days after receipt of written notice any such alarm that becomes inoperable within one year of the installation of such alarm due to a defect in the manufacture of such alarm through no fault of the occupant of the dwelling unit;

(e) Provide written information regarding the testing and maintenance of CO alarms to at least one adult occupant of each dwelling unit, including, but not limited to, general information concerning carbon monoxide poisoning and what to do if a CO alarm goes off, that CO alarms have a useful life limitation and that the owner has a duty to replace such alarms upon the expiration of such useful life. Such information may include material that is distributed by the manufacturer or any material prepared or approved by DOB and shall be provided at the time of installation;

(f) Keep the following records, on the premises or in the business office of the owner or managing agent, relating to the installation and maintenance of CO alarms in the building:

(1) date notice posted pursuant to § 12-06(b) of this chapter;

(2) date of installation of each CO alarm and the expiration date of the manufacturer's suggested useful life of each such alarm;

(3) whether each CO alarm receives its primary power from the building wiring with secondary battery back-up, is a battery-operated alarm, or is a plug-in type CO alarm with a back-up battery;

(4) apartment number and location within apartment where each alarm was installed;

[(5)] date each alarm tested to determine if it is in operable condition;]

[(6)] (5) maintenance work performed on each alarm; and

[(7)] (6) date occupant requested replacement/repair. These records must be made available to the Commissioner of the Department of Housing Preservation and Development [HPD], DOB, the Fire Department, or the Department of Health and Mental Hygiene ("DOHMH") upon request[; and].

[(g) File a certification of satisfactory installation electronically, or using a form available at each HPD Borough Office location after the first replacement of a new CO alarm that complies with §§ 28-312.1 and 28-312.2 of the administrative code, and within 10 days after completion for each subsequent installation of a CO alarm. An owner must have a current, valid property registration on file for the property in order to file a certification of satisfactory installation.]

§ 5. Subdivision (g) of Section 12-07 of Chapter 12 of Title 28 of the Rules of the City of New York is amended to read as follows:

(g) Keep the following records relating to the installation and maintenance of CO alarms in the dwelling or dwelling unit:

(1) date of installation of each CO alarm and the expiration date of the manufacturer's suggested useful life of each such alarm;

(2) whether each CO alarm receives its primary power from the building wiring with secondary battery back-up, is a battery-operated device, or is a plug-in type CO alarm with a back-up battery;

(3) location within dwelling or dwelling unit where each alarm is installed;

[(4) date each alarm was tested to determine if it is in operable condition;]

[(5)] (4) maintenance work performed on each alarm; and

[(6)] (5) date occupant requested replacement/repair. These records must be made available to the Commissioner of the Department of Housing Preservation and Development [HPD], DOB, the Fire Department, or DOHMH upon request.

§ 6. Subdivisions (d) and (e) of Section 12-09 of Chapter 12 of Title 28 of the Rules of the City of New York are amended to read as follows:

(d) Keep the following records, on the premises or in the business office of the managing agent or owner, relating to the installation and maintenance of CO alarms or systems:

(1) date of installation of each CO alarm or system and the expiration date of the manufacturer's suggested useful life of each such alarm;

(2) whether the CO alarm receives its primary power from the building wiring with secondary battery back-up, is a battery-operated alarm, is a plug-in type CO alarm with a back-up battery, or in the alternative whether it is a line operated zoned CO detecting system with central annunciation and central office tie-in for all public corridors and public spaces;

(3) room number and location within room where each CO alarm was installed;

[(4) date each alarm was tested to determine if it is in operable condition;]

[(5)] (4) maintenance work performed on each alarm. These records must be made available to the Commissioner of the Department of Housing Preservation and Development [HPD], DOB, the Fire Department, or DOHMH upon request[; and].

[(e) File a certification of satisfactory installation electronically, or using a form available at each HPD Borough Office location after the first replacement of a new CO alarm that complies with §§ 28-312.1 and 28-312.2 of the administrative code, and within 10 days after completion for each subsequent installation of a CO alarm. An owner must have a current, valid property registration on file for the property in order to file a certification of satisfactory installation.]

§ 7. Section 12-10 of Chapter 12 of Title 28 of the Rules of the City of New York is amended to read as follows:

§ 12-10 Form for Notices for CO Alarms.

A sample form for providing notice to occupants pursuant to § 12-06 of these rules follows [is attached and made part of this chapter]:

NOTICE

The law requires the owner of the premises to provide a carbon monoxide alarm in each apartment in this building. The carbon monoxide alarm must be placed within 15 feet of the primary entrance to each sleeping room, must be equipped with an end of life alarm, and must be periodically replaced by the [property] owner as necessary when the suggested useful life of the alarm expires. Tenants are responsible for the maintenance and repair of the alarms installed in the apartment and for replacing any or all alarms that are stolen, removed, missing, or become inoperable during the occupancy of the apartment, unless an alarm becomes inoperable within one year of being installed due to a manufacturing defect. The occupant of each apartment [in a building] in which a carbon monoxide alarm is provided and installed must pay the owner \$25.00 per alarm, or a maximum of \$50.00 per device where a combined smoke and carbon monoxide detecting device is installed. This fee covers the cost of the work for the initial installation and each periodic replacement. The occupant has one year from the date of installation to pay the owner.

§ 8. Chapter 12 of Title 28 of the Rules of the City of New York is amended by adding a new section 12-11 to read as follows:

§ 12-11 Owner Responsibilities for Notices of Suspected Gas Leak Procedures.

The owner of a tenant-occupied dwelling shall take all of the following actions:

(a) Deliver or cause to be delivered to each tenant and prospective tenant of such dwelling one time, along with the first lease or first lease renewal for such tenant or prospective tenant, a notice in a form approved by the Department of Housing Preservation and Development ("HPD") describing the procedures to be followed when a gas leak is suspected;

(b) Post a notice in a form approved by HPD in a common area of the dwelling, readily visible, informing the occupants of such dwelling of the procedures to be followed when a gas leak is suspected. This notice shall conform with the following requirements:

(1) the notice shall have letters not less than three-sixteenths of an inch in height;

(2) the lettering of the notice shall be of bold type and shall be properly spaced to provide good legibility and the background shall be of contrasting colors;

(3) the notice shall be durable and shall be substantially secured to the common area where posted;

(4) the notice shall be of metal, plastic, or decal; and

(5) lighting shall be sufficient to make the notice easily legible.

(c) The notices required by subdivisions (a) and (b) of this section shall instruct tenants to leave the building and call 911 immediately after leaving when they suspect a gas leak and then call the gas service provider that is providing gas to the dwelling. The owner of the dwelling shall identify who the gas service provider for the dwelling is and provide the name and current emergency phone number of the appropriate gas service provider on the notices required by subdivisions (a) and (b). A sample of an approved notice, the language of which may be used for compliance with subdivisions (a) and (b) of this section, is made part of these regulations in 28 RCNY § 12-12, and may also be found on HPD's website at www.nyc.gov/HPD.

(1) When the gas service provider for the dwelling is Con Edison, the notices required by subdivisions (a) and (b) of this section shall instruct tenants to call Con Edison at 1-800-752-6633, after first leaving the building and calling 911, unless 1-800-752-6633 is no longer the number used to report suspected gas leaks to Con Edison, in which case the current emergency phone number used by Con Edison shall be used instead.

(2) When the gas service provider for the dwelling is National Grid, the notices required by subdivisions (a) and (b) of this section shall instruct tenants to call National Grid at 1-718-643-4050, after first leaving the building and calling 911, unless 1-718-643-4050 is no longer the current number used to report suspected gas leaks in New York City to National Grid, in which case the current emergency phone number used by National Grid for New York City shall be used instead.

(d) For the notice required to be posted by subdivision (b) of this section, an owner may in lieu of such otherwise required notice, choose to post a single notice that incorporates and complies with 28 RCNY § 12-01(b) and (c), 28 RCNY § 12-06(b), and 28 RCNY § 12-11(b). A sample of such an approved notice is made part of these regulations in 28 RCNY § 12-12.1 and may also be found on HPD's website at www.nyc.gov/HPD.

§ 9. Chapter 12 of Title 28 of the Rules of the City of New York is amended by adding a new section 12-12 to read as follows:

§ 12-12 Form for Notices for Suspected Gas Leak Procedures.

A sample notice, as required by subdivisions (a) and (b) of §12-11 of these rules follows. The language used in the sample notice below may be used by an owner for both of the notices required by such subdivisions (a) and (b).

NOTICE

The law requires the owner of the premises to advise tenants that when they suspect that a gas leak has occurred, they should take the following actions:

1. Quickly open nearby doors and windows and then leave the building immediately; do not attempt to locate the leak. Do not turn on or off any electrical appliances, do not smoke or light matches or lighters, and do not use a house-phone or cell-phone within the building;
2. After leaving the building, from a safe distance away from the building, call 911 immediately to report the suspected gas leak;
3. After calling 911, call the gas service provider for this building as follows:

Provider

Number

§ 10. Chapter 12 of Title 28 of the Rules of the City of New York is amended by adding a new section 12-12.1 to read as follows:

§ 12-12.1 Combined Form for Notice for Smoke Detecting Devices, Notice for Carbon Monoxide Alarms, and Notice for Suspected Gas Leak Procedures.

If an owner chooses to post a single notice that incorporates and complies with the notice requirements of 28 RCNY § 12-01(b) and (c), 28 RCNY § 12-06(b), and 28 RCNY § 12-11(b), the sample notice below may be used in lieu of the notices otherwise required by 28 RCNY § 12-01(b) and (c), 28 RCNY § 12-06(b), and 28 RCNY § 12-11(b) and shall be posted in a common area of the building, readily visible:

Notices for Suspected Gas Leaks, Smoke Detecting Devices, and Carbon Monoxide Alarms

NOTICE

The law requires the owner of the premises to notify tenants regarding the following:

Suspected Gas Leak Procedure: When a tenant suspects that a gas leak has occurred, the tenant should take the following actions:

1. Quickly open nearby doors and windows and then leave the building immediately; do not attempt to locate the leak. Do not turn on or off any electrical appliances, do not smoke or light matches or lighters, and do not use a house-phone or cell-phone within the building;
2. After leaving the building, from a safe distance away from the building, call 911 immediately to report the suspected gas leak;
3. After calling 911, call the gas service provider for this building as follows:

Provider

Number

Smoke Detectors: The law requires the owner of the premises to provide and install one or more approved and operational smoke detectors in each apartment and to periodically replace such devices upon the expiration of their useful life in accordance with article 312 of chapter 3 of title 28 of the New York City Administrative Code. The tenant of each apartment is responsible for the maintenance and repair of the detectors installed in the apartment and for replacing any or all detectors which are stolen, removed, missing or become inoperable during the occupancy of the apartment with a device meeting the requirements of article 312 of chapter 3 of title 28 of the Administrative Code, unless a detector becomes inoperable within one year of being installed due to a manufacturing defect. The tenant of each apartment in this building in which a battery-operated smoke detector is provided and installed shall pay the owner a maximum of twenty-five dollars or a maximum of fifty dollars where a combined smoke and carbon monoxide detecting device is installed for the cost of providing and installing each detector. The tenant has one (1) year from the date of installation to make such payment to the owner.

Carbon Monoxide Detectors: The law requires the owner of the premises to provide a carbon monoxide alarm in each apartment in this building. The carbon monoxide alarm must be placed within 15 feet of the primary entrance to each sleeping room, must be equipped with an end of life alarm, and must be periodically replaced by the owner as necessary when the suggested useful life of the alarm expires. Tenants are responsible for the maintenance and repair of the alarms installed in the apartment and for replacing any or all alarms that are stolen, removed, missing, or become inoperable during the occupancy of the apartment, unless an alarm becomes inoperable within one year of being installed due to a manufacturing defect. The occupant of each apartment in which a carbon monoxide alarm is provided and installed must pay the owner \$25.00 per alarm, or a maximum of \$50.00 per device where a combined smoke and carbon monoxide detecting device is installed. This fee covers the cost of the work for the initial installation and each periodic replacement. The occupant has one year from the date of installation to pay the owner.