

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 39

By Council Member Leffler; also Council Members Alter, Castaneira Colon, Dryfoos, Friedlander, Greitzer, Harrison, Lisa, Maloney, McCaffrey, Messinger, Michels, Pinkett, Rivera and Eisland.

A LOCAL LAW

To amend the administrative code of the city of New York in relation to prohibiting privately-operated apartment building incinerators.

Be it enacted by the Council as follows:

Section one. Declaration of legislative intent and findings. In the 1960's and 1970's, the council enacted legislation regulating the operation of existing privately-operated incinerators and prohibiting the installation of any additional privately-operated incinerators. The approximately 2500 incinerators that are now operating in apartment buildings, account for nearly all the privately-operated incinerators currently in use in the city. The council finds that these incinerators continue to pose a severe threat to the health, safety, welfare and comfort of New Yorkers. Reliable scientific evidence establishes that because nearly all these incinerators lack effective emissions and/or combustion controls, they emit unacceptable levels of various toxic gases and substances, including particulates, heavy metals, acid gases, dioxins and furans. These incinerators are operated by personnel who lack adequate training in the principles of combustion and who are incapable of effectively monitoring and controlling the operation of the incinerator. As a result, combustion efficiencies are often low, causing incomplete burning and the creation of polluting by-products. Moreover, because these incinerators' stacks rise only ten to fifteen feet above roof level, emissions are poorly dispersed. Finally, these incinerators are not equipped with state-of-the-art pollution control devices to control the wide-range of pollutants that may be emitted.

The council finds that with the institution of the mandatory citywide recycling program and the resource recovery program, the elimination of privately-operated incinerators will not overburden the city's solid waste disposal system. Moreover, the elimination of these facilities is not intended to result in a reduction of services requiring a rent reduction under the rent and rehabilitation law or the rent stabilization law. Accordingly, in order to protect the health and welfare of the public, the council finds it appropriate to ban all existing privately-operated incinerators.

§2. Section 24-102 of chapter one of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-102 Declaration of policy. It is hereby declared to be the public policy of the city to preserve, protect and improve the air resources of the city so as to promote health, safety and welfare, prevent injury to human, plant and animal life and property, foster the comfort and convenience of its inhabitants and, to the greatest degree practicable, facilitate the enjoyment of

the natural attractions of the city. It is the public policy of the city that every person is entitled to air that is not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the emission into the open air of harmful or objectionable substance, including but not limited to smoke, soot, fly ash, dust, fumes, gas, vapors, odors or any products of combustion or incomplete combustion resulting from the use of fuel burning equipment or refuse burning equipment is a menace to the health, welfare and comfort of the people of the city and a cause of extensive damage to property. For the purpose of controlling and reducing air pollution, it is hereby declared to be the policy of the city to *actively regulate and eliminate* [establish active and continuing supervision over] such emissions. The necessity for legislation by the enactment of the provisions of this chapter is hereby declared as a matter of legislative determination. This code shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the emergency powers of the board of health of the department of health or the right of such department to engage in any of its necessary or proper activities.

§3. Subdivision 18 of section 24-104 of such chapter, title and code is amended to read as follows:

(18) Control apparatus means any device which prevents or controls the [omission] *emission* of any air contaminant.

§4. Section 24-117 of such chapter, title and code is amended by adding a new subdivision (j) to follow subdivision (i) to read as follows:

(j) *Notwithstanding any provision of this section to the contrary, every owner of refuse burning equipment shall cease the operation of and remove or seal such refuse burning equipment within four years of the effective date of this subdivision. Substitution, modification or reduction by an owner of essential or required services subject to the provisions of the city rent and rehabilitation law or the rent stabilization law of nineteen hundred sixty-nine shall be permitted if such substitution, modification or reduction is necessary to comply with this subdivision and subdivision (a) of this section and is the minimum substitution, modification or reduction of essential or required services that is required for such compliance. This subdivision shall not apply to refuse burning equipment described in subdivisions one, two and three of section 24-118 of this subchapter.*

§5. This local law shall take effect immediately upon its enactment into law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 13, 1989, and approved by the Mayor on June 28, 1989.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed local law (Local Law 39 of 1989, Council Int. No. 977-B) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 13, 1989:
34 for, 0 against

Was approved by the Mayor on June 28, 1989.

Was returned to the City Clerk on June 29, 1989.

LEONARD KOERNER, Acting Corporation Counsel