

**LOCAL LAWS
OF
THE CITY OF NEW YORK**

FOR THE YEAR 1997

No. 65

Introduced by Council Member Spigner, The Speaker (Council Member Vallone), Marshall, Freed, Pagan, Sabini, Michels, Williams, Malave-Dilan, Linares, Perez, Ognibene, Abel and Stabile (at the request of the Mayor and the Queens Borough President); also Council Members Harrison, Koslowitz, Leffler, McCaffrey, Povman and Robles.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to improving enforcement measures against illegal apartment conversions

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 20-392 of the administrative code of the city of New York, as amended by local law number 66 for the year 1989, is amended by adding a new paragraph 9 to read as follow:

9. Violation of any provision of subchapters one, two or three of title twenty-six or subchapter one of title twenty-seven of this code, or any rule adopted thereunder or for performing or attempting to perform any act prohibited by such subchapters, provided that the commissioner shall suspend or revoke the license of any licensee who continues to work in violation of a stop-work notice or order issued pursuant to section 26-118 of this code.

§ 2. Section 26-125 of the administrative code of the city of New York is amended to read as follows:

a. Except as otherwise provided in [subdivision b] *subdivisions b and f* of this section, section 26-126 or 26-248 of this title, every person who shall violate any of the provisions of any laws, rules or regulations enforceable by the department or who shall knowingly take part or assist in any such violation shall be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than five thousand dollars. Such person shall also be subject to the payment of a penalty of not more than five thou-

sand dollars to be recovered in a civil action brought in the name of the city in any court of record in the city.

b. Notwithstanding any other law, rule or regulation, *and in addition to any other penalties provided in this code or elsewhere*, any person who shall convert, or knowingly take part or assist in the conversion *or permit the maintenance of the conversion* of a residence, which is legally approved for occupancy as a one-family or two-family dwelling, to a dwelling for occupancy by four or more families shall be guilty of a misdemeanor and upon conviction thereof shall be [punished by] *subject to imprisonment for a period not to exceed one year and by a fine for each dwelling unit added of not less than [two hundred fifty] one thousand dollars nor more than [one] five thousand dollars for the first offense, not less than [five hundred] two thousand five hundred dollars nor more than [one] fifteen thousand dollars for a second offense and [five] not less than ten thousand dollars nor more than twenty thousand dollars for a third or subsequent offense.* [Such person shall also be subject to imprisonment for a period not to exceed ninety days.]

c. In addition to the penalties provided in subdivision a of this section, any owner who shall fail to file a report pursuant to the provisions of section 27-228.5 or 27-1000 of the code shall be liable for a civil penalty of not less than twenty-five dollars nor more than one hundred dollars per day not to exceed one thousand dollars commencing with the date after which such report was required to be filed with the department and terminating on the date of the filing of such report with the department.

d. In addition to the penalties provided in subdivision a of this section, any owner who shall fail to file a report pursuant to the provisions of section 27-793 of this code shall be liable for a civil penalty of not less than twenty-five dollars nor more than fifty dollars per day, commencing with the day following the date on which such report was required to be filed with the department and terminating on the date of the filing of such report with the department, provided that the maximum amount of such penalty shall not exceed one thousand five hundred dollars for any report for a building greater than six stories and five hundred dollars for any report for a building of six stories or less.

e. In addition to the penalties provided in subdivision a of this section and notwithstanding the provisions of subdivision d of this section, any owner who files a report pursuant to the provisions of section 27-793 of this code after the date such report was required to be filed with the department but who provides evidence in accordance with rules promulgated by the commissioner that the boiler was inspected in accordance with the provisions of subdivision b of section 27-793 of this code shall only be liable for a civil penalty of fifty dollars for any report for a building six stories or less and one hundred fifty dollars for any report for a building greater than six stories.

f. *As an alternative to the penalties provided in subdivision b of this section, any person who violates the provisions of such subdivision may be subject to the payment of a civil penalty of one thousand dollars per day for each dwelling unit added, commencing on the date such notice of violation was issued and terminating on the date of the filing of a valid certification that the condition constituting the violation has been corrected or the date of final adjudication of the violation, whichever occurs first, to be recovered in a civil action brought in the name of the city in any court of record in the city or returnable to an administrative tribunal of competent jurisdiction. There shall be*

a rebuttable presumption that the violation continued to exist from the date of the issuance of a notice of violation until the date of adjudication or proof of correction to the satisfaction of the commissioner.

§ 3. Subdivision a of section 26-126.1 of the administrative code of the city of New York, as added by local law number 80 for the year 1985, is amended to read as follows:

a. In addition to or as an alternative to any of the remedies and penalties provided in subchapters one, two and three of chapter one of this title or chapter one of title twenty-seven any person who shall violate or fail to comply with any of the provisions of subchapters one, two and three of chapter one of this title or chapter one of title twenty-seven or the rules and regulations promulgated hereunder shall, except as otherwise specifically provided in subdivision c of section 26-126.2, be liable for a civil penalty which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before the board. The provisions of sections 26-244, 26-246 and 26-248 relating to notification prior to the commencement of judicial proceedings shall not apply to the recovery of civil penalties in proceedings before the environmental control board.

Except as otherwise specifically provided, such civil penalty shall be determined in accordance with the following schedule:

	First Violation	Second or Subsequent Violation by the same respondent of the same provision of law, rule or regulation and, if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violation occurred, at the same premises (all violations committed within an eighteen month period).		
Section	Minimum (Dollars)	Maximum (Dollars)	Minimum (Dollars)	Maximum (Dollars)
27-127	0	1,000	0	5,000
27-147	0	1,000	0	5,000
27-215	0	1,000	0	5,000
27-217	0	1,000	0	5,000
27-1009 (subd. c)	0	1,000	0	5,000
27-1018	0	1,000	0	5,000
27-1019	0	1,000	0	5,000
27-1020	0	1,000	0	5,000
27-1023	0	1,000	0	5,000]
27-118.1	250	2,500	1,000	10,000
[Any provision of subchapter 14 of chapter 1 of title 27	0	1,000	0	5,000]
Any provision of subchapter 19				

of chapter 1 of title 27	0	5,000	0	10,000
[All other provisions of subchapters 1, 2 and 3 of chapter 1 of this title or chapter 1 of title 27, the zoning resolution and related rules and regulations	0	500	0	5,000]
<i>Any provision of subchapters 1, 2 and 3 of chapter 1 of this title and all other provisions of chapter 1 of title 27 or any provisions of the zoning resolution and related rules and regulations</i>	0	2,500	0	10,000

(Reference to a section of the code is intended to include any rules and regulations related to such section).

§ 4. Section 26-126.1 of the administrative code of the city of New York, as added by local law number 80 for the year 1985, is amended by adding a new subdivision e to read as follows:

e. In addition to the penalties set forth in subdivision a of this section: (i) any individual who shall violate or fail to comply with the provisions of section 27-118.1 of this code shall also be subject to the payment of a penalty of not less than fifty dollars nor more than one hundred dollars per day, for each dwelling unit added, commencing on the date such notice of violation was issued and terminating on the date of the filing of a certification that the condition constituting the violation has been corrected or the date of final adjudication of the violation by the environmental control board, whichever occurs first, and there shall be a rebuttable presumption that the violation continued to exist from the date of the issuance of the notice of violation until the date of the filing of the certification or final adjudication; and (ii) a third or subsequent violation of section 27-118.1 of this code by the same respondent and, if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violation occurred, at the same premises (all violations committed within an eighteen month period), shall result in a civil penalty of not less than five thousand dollars nor more than fifteen thousand dollars.

§ 5. Subdivision 4 of section 26-305 of the administrative code of the city of New York, as added by local law number 15 for the year 1968, is amended to read as follows:

4. To the extent that such expenses are not recovered by the department, they shall, except as herein provided, constitute a lien *or liens* upon such building and the lot upon which it stands, governed by the provisions of law regulating mechanics liens.

(a) No such lien shall be valid for any purpose until the department shall file a notice of lien containing the same particulars as are required to be stated with reference

to mechanics liens, with the further statement that the expenses had been incurred for relocation services provided pursuant to subparagraph (v) of paragraph (a) of subdivision one of section 26-301 of this chapter together with a statement of such expenses. [The notice of lien may be filed at any time within four months after such expenses have been incurred by the department. In computing the period within which such notice may be filed, the date on which the last expense has been incurred in relocating the tenants of any dwelling shall be deemed the date on which all of such expenses have been incurred, and only one lien shall be filed of all such expenses.] *The department may file one or more such liens for relocation expenses incurred with respect to any building within one year of incurring any such expenses. In computing such one year period, the latest date on which any expense in relation to which such notice was filed has been incurred shall be deemed the date on which all of the expenses stated in such notice were incurred.*

(b) Such lien *or liens* shall continue [to be a lien] for a period of [three] *ten* years from the time of filing of notice thereof, unless proceedings are in the meantime taken to enforce [it] or discharge [it] *such lien or liens*, which proceedings may be taken at any time during [its] *the continuance of such lien or liens* or unless an order *is* granted within [three] *ten* years from the time of [its] *the* filing of *any such lien or liens* by a court of record or a judge or justice thereof continuing such lien *or liens*, in which case such lien *or liens* shall be redocketed as of the date of granting such order and a statement made [that] *continuing* such lien [is continued] *or liens* by virtue of such order. No lien shall be continued by such order for more than [three] *ten* years from the granting thereof, but a new order and entry may be made in each successive [three-year] *ten-year* period. Any judgment in a proceeding to enforce or discharge such lien shall constitute a lien in the same manner and from the same date as the original lien. The initiation of any such proceedings shall not suspend or bar the right to pursue any other remedy provided by this section or any other law for the recovery of such expenses.

(c) *Notwithstanding anything to the contrary in paragraph b of this subdivision, a lien which already exists and is currently docketed on the effective date of the local law that added this paragraph shall be deemed continued for a period of ten years commencing from the date of the last renewal or docketing of said lien, whichever is later.*

§ 6. Title 27 of the administrative code of the city of New York is amended by adding a new section 27-118.1 to read as follows:

§ 27-118.1 *Illegal alterations involving change in occupancy. No person, except in accordance with all requirements of this code, shall convert, knowingly take part or assist in the conversion, or permit the maintenance of the conversion, of a residence which is legally approved for occupancy as a dwelling for one or more families, to a residence for occupancy as a dwelling for more than the legally approved number of families. Any person who shall violate or fail to comply with the provisions of this section shall be liable for a civil penalty which may be recovered in a proceeding before the environmental control board pursuant to the provisions of section 26-126.1 of this code. Upon the finding of such violation and the imposition of the civil penalty, the environmental control board shall forward to the internal revenue service, the new york state department of taxation and finance and the new york city department of finance the name and address of the respondent, the address of the building or structure with*

respect to which the violation occurred, and the time period during which the violation was found to have existed.

§ 7. Section 27-3018 of the administrative code of the City of New York, as amended by local law number 73 for the year 1991, is amended by amending subdivision h and by adding new subdivisions i and j, to read as follows:

h. [No application shall be accepted or a certificate electrical inspection issued by the department for any installation requiring the setting] *The department shall not issue a temporary or final certificate of inspection pursuant to an electrical application which involves the energizing of a meter in a one-, two-, [or] three-, or four-family residence, if the [additional meter would] department finds that such action will cause the total number of meters for the building to exceed the number of dwelling units specified for such building in the certificate of occupancy [or other use permitted for such building], or if there is no certificate of occupancy, [in the zoning resolution] as determined by the department, except as permitted herein. A building specified as a one-family residence in the certificate of occupancy or, if there is no certificate of occupancy, [in the zoning resolution] as determined by the department, may have only one electric meter. A building in which two or more dwelling units have been constructed in accordance with the certificate of occupancy, or if there is no certificate of occupancy, [with the zoning resolution] as determined by the department, may have one meter for each dwelling unit and one additional meter for the common areas of the building, provided that smoke detecting devices are installed in all common areas in accordance with departmental requirements.*

Such common areas may include boiler rooms, shared hallway lighting, shared stairway lighting, and outdoor perimeter lighting but shall not include any habitable space. In the event that a meter has been found to have been installed or to exist in violation of this section, the department's bureau of electrical control may take action leading to the disconnecting of such meter in accordance with the notice requirements set forth in section 27-3020 of this code.

i. *Any application for a certificate of electrical inspection filed with the department must include from the building owner or his/her authorized representative, a signed authorization as prescribed by the department, permitting such work to be performed. In addition, any electrical application filed with the department involving the energizing of a meter, must include as well, a statement from the owner or his/her authorized representative indicating the intended use or purpose of such meter and affirming that such meter will be maintained in compliance with the provisions of this section. Any individual who knowingly misrepresents the use of a meter or allows a meter to be used in violation of the provisions of this section shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or imprisonment of not more than six months or both such fine and imprisonment.*

j. *Any temporary certificate of inspection issued by the department shall expire ninety days after the date of issuance unless a final certificate of inspection has been issued by the department or an extension for such temporary certificate has been granted by the department. In the event no such final certificate of inspection has been issued or extension authorization granted, the department may take action leading to the dis-*

connecting of such meter(s) in accordance with the notice requirements set forth in section 27-3020 of this code.

§ 8. Section 27-3183.1 of the administrative code of the city of New York, as added by chapter 92 of the laws of 1992, is amended to read as follows:

§ 27-3183.1 Electric meter installation; restriction. No public utility [which supplies] *shall supply* electricity to a one, two, three or four family residence building [shall install], *nor shall such utility energize* more electrical meters in [such] a building than the number of distinct and separate residences in such building as authorized in the certificate of [residence] *occupancy* applicable thereto, *or if there is no certificate of occupancy, as determined by the department*, [except where an electrical meter is installed to service common areas] *without first receiving a temporary or final certificate of inspection from the department's bureau of electrical control*. In the event that an owner of a one, two, three or four family building wants to install an additional electrical meter other than provided for herein, approval shall be obtained in writing from the bureau of electrical control in the department of buildings. A public utility shall not install such additional electrical meter without such approval.

A building in which two or more dwelling units have been constructed in accordance with the certificate of occupancy, or if there is no certificate of occupancy, as determined by the department, may have one meter for each dwelling unit and one additional meter for the common areas of the building, provided that smoke detecting devices are installed in all common areas in accordance with departmental requirements. Such common areas may include boiler rooms, shared hallway lighting, shared stairway lighting, and outdoor perimeter lighting but shall not include any habitable space. In the event that a meter has been found to have been installed or to exist in violation of this section, the utility must report such findings to the bureau of electrical control, which may take action leading to the disconnecting of such meter in accordance with the notice requirements set forth in section 27-3020 of this code.

§ 9. This local law shall take effect thirty days after it shall have been enacted into law and shall apply to violations committed on and after such date. The commissioner of buildings, the fire commissioner, the commissioner of consumer affairs and the environmental control board may promulgate any rules or take any other actions necessary for the timely implementation and enforcement of this local 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 August 5, 1997, and approved by the Mayor on August 19, 1997.

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 65 of 1997, Council Int. No. 959-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on August 5, 1997: 45 FOR, 0 AGAINST.

Was approved by the Mayor on August 19, 1997.

Was returned to the City Clerk on August 21, 1997.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel