

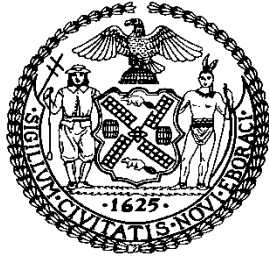
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THE COUNCIL

Committee Report of the Governmental Affairs Division

Robert Newman, Legislative Director

Alix Pustilnik, Deputy Director, Governmental Affairs

COMMITTEE ON FIRE & CRIMINAL JUSTICE SERVICES

Hon. Elizabeth S. Crowley, Chair

December 18, 2012

PROPOSED INT. NO. 943-A

By Council Members Dickens, Comrie, Fidler, Koo, Mealy, Rose, Williams, Rodriguez and Crowley (in conjunction with the Mayor)

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to the place of assembly certificate of operation and the place of assembly permit.

ADMINISTRATIVE CODE:

Amends table 28-112.8, section 28-117.1 by adding new sections 28-117.1.2 and 28-117.1.3 and amends section 28-117.3 of chapter 1 of title 28.

BUILDING CODE:

Amends section 3110.7.

FIRE CODE:

Amends section FC 105.3.1 and the "places of assembly" subdivision of section FC 105.6.

I. INTRODUCTION

On December 18, 2012, the Committee on Fire and Criminal Justice Services, chaired by Council Member Elizabeth S. Crowley, will consider on Proposed Int. No. 943-A, a Local Law to amend the Administrative Code of the city of New York, in relation to the Place of Assembly Certificate of Operation (“PACO”) and the Place of Assembly Permit (“FDNY Permit”). The Committee first considered this bill at a hearing on December 17, 2012 and received testimony from the New York City Department of Buildings (“DOB”), the Fire Department (“FDNY”) and stakeholders.

II. BACKGROUND

In 2009, the New York City Regulatory Review Panel (“Review Panel”) was created by local law to review the structure and function of city regulations and their impact on small businesses.¹ After garnering input from small business owners, industry representatives and members of the public, the Review Panel, comprised of members of the Bloomberg Administration (“the Administration”) and representatives from the City Council, issued a report (“Panel Report”) which detailed the panel’s findings and recommendations on fostering small business growth by eliminating or streamlining regulatory obstacles.² Simplifying the place of assembly permitting process was one of the panel’s suggestions.³ Proposed Int. No. 943-A, would amend several provisions of the Administrative, Building and Fire Codes relating to places of assembly in order to coordinate and streamline the regulation of those places by the DOB and FDNY.⁴

¹ <http://council.nyc.gov/html/releases/100212business.shtml>. See also, New York City Local Law 45 of 2009.

² See, Regulatory Review Panel Report, April 2010.

http://www.nyc.gov/html/nycrules/downloads/pdf/regulatory_review_panel_report.pdfhttp://www.nyc.gov/html/nycrules/downloads/pdf/regulatory_review_panel_report.pdf.

³ See, Regulatory Review Panel Report at p. 19, April 2010.

⁴ See, Administration Memorandum in Support of Introductory No. 943-2012, on file with the Fire and Criminal Justice Services Committee.

Currently, a PACO is required for premises where 75 or more members of the public gather indoors, or 200 or more gather outdoors for religious, recreational, educational, political or social purposes or to consume food or drink.⁵ These premises must meet certain Fire and Building Code requirements to operate.⁶ The initial application for a PACO is filed with the DOB which reviews the application and performs an inspection of the premises prior to issuance of the certificate.⁷ PACOs are issued for one year terms and must be renewed on an annual basis. The renewal is based on an inspection of the location by the FDNY prior to the expiration of the certificate.⁸ Although FDNY inspects places of assembly to assess compliance requirements, FDNY does not renew these certificates, but rather forwards the inspection results to DOB and, if determined to be appropriate, DOB issues the PACO renewal.⁹

The involvement of two agencies in the renewal process for these certificates has been criticized as being duplicative and cumbersome and noted as causing delays in places of assembly receiving timely renewal of the needed PACO. Proposed Int. No. 943-A would address these concerns by streamlining this process. The bill would allow DOB to issue an initial PACO, but only FDNY would be involved in the renewal of these certificates. The bill would authorize the FDNY to issue, after an annual compliance inspection, an FDNY Permit that, together with the DOB issued PACO would authorize the continued operation of a place of assembly. The FDNY permit would last for a year subject to renewal. The DOB PACO would not expire but would be inoperative without an accompanying FDNY permit. Additionally, the bill specifies that if places of assembly make certain changes a new or amended PACO from DOB will be

⁵ <http://www.nyc.gov/html/dob/html/development/pa.shtml>. PACOs were previously called Place of Assembly Permits.

⁶ <http://www.nyc.gov/html/dob/html/development/pa.shtml>.

⁷ <http://www.nyc.gov/html/dob/html/development/pa.shtml>.

⁸ <http://www.nyc.gov/html/dob/html/development/pa.shtml>.

⁹ <http://www.nyc.gov/html/dob/html/development/pa.shtml>.

required. A new certificate will be required when a place of assembly without a nine digit number (DOB's Building Information System ("BIS") was created in 1992 allowing the agency to begin issuing nine-digit-job numbers which are recognized in such system) makes a: (i) physical change to the space; (ii) change to seating plan; and/or (iii) an establishment name change. For those places of assembly with a nine-digit job number, these types of changes will trigger the need to file an amended plan with DOB. All places of assembly will be required to file for a new PACO if a change of zoning use group or assembly occupancy group is made at a location.

III. PROPOSED INT. NO. 943-A

Bill section one amends table 28-112.8 of Chapter 1 of Title 28 of the Administrative Code ("Ad. Code") by changing the reference to "renewal" in the comments section to "amendment."

Bill section two amends section 28-117.1.1 of the Ad. Code to provide that PACOs issued prior to the effective date of this legislation will be valid for one year after its date of issuance. After such effective date, all new PACOs shall be subject to the provisions of this legislation and DOB filing requirements.

Bill section three amends section 28-117.1 by adding two new sections. New section 28-117.1.2 would require the issuance of a new PACO for places of assembly without a nine digit job number, when there is a change of zoning use group or assembly occupancy groups A1 through A5, or when there are any changes identified in section 28-117.1.3 and (ii) for places of assembly with a nine digit job number, a new PACO will be necessary when there is a change of zoning use group or assembly occupancy groups A1 through A5. Section 28-117.1.3 would prohibit any change to a place of assembly inconsistent with filed plans unless an amendment to

such plans was approved or accepted by DOB. An amended PACO would be needed for any physical changes requiring a DOB alteration permit, any change to the approved seating plan, or any change in the name of the establishment.

Bill section four amends section 28-117.3 to provide that PACOs shall be valid for one year. After the one year period, a PACO would remain in effect so long as an annual FDNY Permit is in place.

Bill section five amends section BC 3110.7 of the Building Code to correct and conform a reference to the PACO which is presently referred to as a place of assembly permit.

Bill section six amends section FC 105.3.1 of the Fire Code by providing that every permit or renewal granted by the Fire Commissioner shall be for a specified period, not to exceed two years, except for permits listed in section 105.6 of the Fire Code.

Bill section seven amends section 105.6 of the Fire Code to provide that the term of the place of assembly permit would be for a period not to exceed one year.

Bill section eight provides the enactment clause and provides that this local law shall take effect 120 days after its enactment and that, in advance of such effective date, the DOB and FDNY Commissioners may promulgate rules and take any other actions necessary to implement the local law.

Proposed Int. No. 943-A

By Council Members Dickens, Comrie, Fidler, Koo, Mealy, Rose, Williams, Rodriguez and Crowley (in conjunction with the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to the place of assembly certificate of operation and the place of assembly permit.

Be it enacted by the Council as follows:

Section 1. Table 28-112.8 of chapter 1 of title 28 of the administrative code of the city of New York, as amended by local law number 45 for the year 2011, is amended to read as follows:

Table 28-112.8

Item Description	Fee	Comments
Place of assembly certificate of operation.	\$200.	\$100 [renewal] <u>amendment.</u>

§2. Section 28-117.1.1 of chapter 1 of title 28 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§28-117.1.1 Contents of the place of assembly certificate of operation. The place of assembly certificate of operation shall contain the place of assembly certificate number, the number of persons who may legally occupy the space and any other information that the commissioner may determine. Such place of assembly certificate of operation shall be framed and mounted in a location that is conspicuously visible to a person entering the space. For the purposes of this article a department issued place of assembly permit [issued prior to the effective date of this code] or place of assembly certificate of operation shall be valid until its expiration, at which time a new place of assembly certificate of operation shall be required in accordance with the provisions of this article and with the filing requirements of the department. [Prior to the expiration of the term of such place of assembly permit, the party responsible for renewal shall

apply to the department for a certificate of operation in accordance with this article, except that the issuance of such certificate shall be subject to the same inspection requirement as a renewal of a certificate of operation pursuant to this code.]

§3. Section 28-117.1 of chapter 1 of title 28 of the administrative code of the city of New York is amended by adding new sections 28-117.1.2 and 28-117.1.3 to read as follows:

§28-117.1.2 New certificate required. The following changes to a place of assembly shall require a new place of assembly certificate of operation instead of an amendment filed in accordance with section 28-117.1.3:

1. For a department issued place of assembly permit or place of assembly certificate of operation that does not have a nine-digit job number, any change of zoning use group, assembly occupancy group A-1 through A-5, or any of the changes set forth in section 28-117.1.3.
2. For all other department issued place of assembly permits or place of assembly certificates of operation, any change of zoning use group or assembly occupancy group A-1 through A-5.

§28-117.1.3 Amendments. No change shall be made to a place of assembly that is inconsistent with the most recently issued place of assembly certificate of operation or renewal unless an amendment to such certificate is filed with and approved or accepted by the department. Changes that require an amendment include any of the following:

1. Any physical change requiring an alteration permit to be issued by the department.
2. Any amendment to the plan for seating and other moveable furnishings, in accordance with section 28-117.1.
3. Any change to the name of the establishment.

§4. Section 28-117.3 of chapter 1 of title 28 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§28-117.3 Duration [and renewal] of certificate. A place of assembly certificate of operation shall be issued [for a term of 1 year and may be renewed annually upon payment of proper fees and proof of satisfactory inspection by the fire department] by the department and shall be effective for one year after its issuance. Thereafter, such certificate shall be effective only for periods of time during which there is in effect an annual place of assembly permit issued by the fire department pursuant to section 105.6 of the New York city fire code.

§5. Section 3110.7 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

3110.7 Assembly seating. Unless separated from seating inside the building by fire partitions complying with Section 708, the seating for enclosed sidewalk cafés shall be added to that inside the building in order to determine whether a place of assembly [permit] certificate of operation is required.

§6. Section FC 105.3.1 of the New York city fire code, chapter 2 of title 29 of the administrative code of the city of New York, as added by local law number 26 for the year 2008, is amended to read as follows:

105.3.1 Permit issuance and renewal. Every permit or renewal thereof granted by the commissioner shall be for a period specified therein, not to exceed two years, or as set forth in Section 105.6, and shall expire at the end of such period unless the commissioner approves its renewal. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

§7. The “places of assembly” subdivision of section FC 105.6 of the New York city fire

code, chapter 2 of title 29 of the administrative code of the city of New York, as added by local law number 26 for the year 2008, is amended to read as follows:

Places of assembly. A permit is required to maintain or operate a place of assembly. The term of such permit shall be for a period not to exceed 1 year.

§8. This local law shall take effect 120 days after its enactment; provided, however, that the commissioner of buildings and the fire commissioner may, in advance of such effective date, promulgate rules and take any other actions necessary to implement this local law.

RCC
9:40 p.m.
12/10/12