

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1986**

No. 73

J 724

Introduced by Council Member Spigner (by request of the Mayor); also Council Members Foster and Messinger.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to extending the moratorium on the conversion, alteration or demolition of single room occupancy multiple dwellings and prohibiting withdrawal of single room occupancy dwelling units from the rental market during the moratorium.**

*Be it enacted by the Council as follows:*

Section one. Declaration of legislative findings. On October second, nineteen hundred eighty-six, a judgment was entered by a justice of the New York state supreme court which invalidated local law number twenty-four for the year nineteen hundred eighty-six on the ground that the requirements for notice of public hearing prior to mayoral approval of the measure set forth in former section 38b-1.0 of the administrative code of the city of New York were not met. Since the hearing held in connection with mayoral approval of local law number twenty-two for the year nineteen hundred eighty-six, relating to extending the moratorium on conversion, alteration or demolition of single room occupancy multiple dwellings and prohibiting withdrawal of single room occupancy dwelling units from the rental market during the moratorium, was similarly noticed, questions may be raised as to the validity of local law number twenty-two for such year. While the corporation counsel advises that the judgment invalidating local law number twenty-four for such year is before the appellate courts, and that, in his view, the mayor properly approved local law number twenty-four for such year and all other local laws which were before the mayor at that time, the council has determined that to exercise utmost caution in order to protect the population of low income persons it is prudent at this time to re-enact the provisions of local law number twenty-two for such year so as to remove any uncertainty that may exist as to its status.

§ 2. Section six of local law number fifty-nine for the year nineteen hundred eighty-five is amended to read as follows:

§ 6. This local law shall take effect immediately and shall be retroactive to and shall be deemed to have been in full force and effect on and after January ninth, nineteen hundred eighty-five. Subdivisions a and c of section C26-118.10 of the administrative code, as added by section two of this local law, shall cease to have any force and effect and shall terminate [eighteen months after such effective date] on December thirty-first, nineteen hundred eighty-six, unless terminated prior to such date by local law.

§ 3. Subdivision d of section 27-198.2 of the administrative code of the city of New York is amended by adding a new paragraph five to read as follows:

(5) the residential portion of such multiple dwelling became vacant between January ninth, nineteen hundred eighty-five and June sixth, nineteen hundred eighty-six, excluding any owner occupied single room occupancy dwelling units, and the owner, prior to the issuance of any permit for work which would otherwise be prohibited pursuant to subdivisions a and c of this section and

within ninety days after the effective date of this paragraph makes a payment of sixty thousand dollars for each single room occupancy dwelling unit which would be demolished or converted to use as apartments as a result of such work to the low and moderate income housing fund established pursuant to subdivision j of this section provided, however, that (1) within ninety days after the effective date of this paragraph such owner shall make an application for a certification of no harassment or a supplemental certification of no harassment pursuant to the provisions of section 27-2093 of this code and (2) if such application is denied by the commissioner of housing preservation and development or a certification is granted and thereafter revoked and (3) the basis for such denial or revocation is predicated in whole or in part on a determination by such commissioner that harassment occurred at such multiple dwelling between January ninth, nineteen hundred eighty-five and June sixth, nineteen hundred eighty-six, such payment to such fund shall be forfeited by such owner and such owner shall be subject to the provisions of section 27-2151 of this code and subdivisions a and c of this section. In addition to the sanctions provided by section 27-198, prior to the issuance of any permit for work which would otherwise be prohibited pursuant to subdivision a and c of this section, such owner shall be required to make a further payment of sixty thousand dollars for each single room occupancy dwelling unit which would be demolished or converted to use as apartments as a result of such work to the low and moderate income housing fund established pursuant to subdivision j of this section.

§ 4. Subchapter four of chapter two of title twenty-seven of such code is amended by adding a new article nine to read as follows:

## ARTICLE 9

### WITHDRAWAL OF SINGLE ROOM OCCUPANCY DWELLING

#### UNITS FROM THE RENTAL MARKET PROHIBITED

§ 27-2150 Definitions. For the purposes of this article the terms single room occupancy multiple dwelling and single room occupancy dwelling unit shall be as defined in subdivision b of section 27-198.2 of the code.

§ 27-2151 Withdrawal of single room occupancy dwelling units from the rental market prohibited. a. On and after the ninetieth day following the effective date of this article, an owner of a single room occupancy multiple dwelling which is subject to the provisions of this section shall have a duty (1) to make habitable and maintain in a habitable condition all single room occupancy dwelling units and (2) to rent such habitable single room occupancy dwelling units to bona fide tenants. The duty to rent shall be satisfied by the owner if the owner has in fact rented all such units to bona fide tenants or has, in good faith, made a continuing public offer to rent such units at rents no greater than the rents authorized by law.

b. The provisions of this section shall apply to all single room occupancy multiple dwellings which are subject to the provisions of subdivisions a and c of section 27-198.2 of the code during the time such subdivisions a and c are in full force and effect except:

(1) any single room occupancy multiple dwelling which is exempted from the provisions of subdivisions a and c of section 27-198.2 of the code pursuant to paragraphs one, two, three, four or five of subdivision d of section 27-198.2, whether or not the owner has made any payment required to be made for exemption by clause (ii) of subparagraph (a) of paragraph one of subdivision d of such section or clause (ii) of subparagraph (b) of paragraph one of subdivision d of such section; or

(2) any single room occupancy multiple dwelling which had twenty-four or fewer dwelling units on January ninth, nineteen hundred eighty-five and on January first, nineteen hundred eighty-three had eight or more occupied single room occupancy dwelling units and on June sixth, nineteen hundred eighty-six had seven or fewer occupied single room occupancy dwelling units, excluding any owner occupied single room occupancy dwelling units, and an individual owner with at least a fifty percent fee interest in the multiple dwelling establishes to the satisfaction of the commissioner of the department of housing preservation and development that such owner intends to occupy such premises as his or her primary residence for a period of not less than three years.

§ 27-2152 Enforcement. a. If the commissioner has reasonable cause to believe that an owner has violated the provisions of subdivision a of section 27-2151, the commissioner shall serve a notice of violation and an order to correct such violation on the owner pursuant to sections 27-2091 and 27-2095 of this code. The order shall require the owner to comply with subdivision a of section 27-2151 in the manner specified in such order within ten days. A copy of the order shall be filed with the city register and any subsequent purchaser of the property shall be subject to such order.

b. An owner may apply within the ten day period following service of the notice and order:

- (1) for the revocation of the notice of violation and order on the ground that the condition alleged to constitute the violation did not exist at the time the violation was placed. The department may grant such revocation upon the presentation of proof satisfactory to the department; or
- (2) for an extension of the time for correction. The department may, upon good cause shown, including consideration of the complexity of repairs which may be necessary to make the dwelling unit habitable, grant such extension for such period of time that it deems appropriate.

c. The owner shall certify correction of the violation in accordance with subdivision f of section 27-2115 no later than five days after the date set for correction. Such certification shall be supported by a sworn statement by the owner that the units which are the subject of the notice of violation have been rented to bona fide tenants or that the owner has, in good faith, made a continuing public offer to rent such units at rents no greater than the rents authorized by law. The department may require such additional proof as it deems necessary, including but not limited to the specific units offered for rent and the rents asked therefor.

d. For the purposes of this section there shall be a rebuttable presumption that an owner has violated the provisions of subdivision a of section 27-2151 if a single room occupancy dwelling unit is not occupied by a bona fide tenant for a period of thirty days or longer.

e.(1) An owner who violates the provisions of subdivision a of section 27-2151 shall be subject to a civil penalty of five hundred dollars for each single room occupancy dwelling unit cited in the notice and order issued pursuant to subdivision a of this section. In addition, an owner who fails to comply with the order within the time specified in the order or within such further period of time authorized by the department pursuant to subdivision b of this section shall be subject to a civil penalty of two hundred fifty dollars per day for each dwelling unit to be calculated from a date ten days after service of the order to the date of compliance therewith.

(2) In addition to the civil penalties provided in paragraph one of this subdivision any owner who willfully makes a false certification that a violation has been corrected shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars for each dwelling unit or units which are the subject of the notice of violation. Such owner shall also be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars nor

more than one thousand dollars, or by imprisonment up to six months, or by both such fine and imprisonment.

(3) Such civil penalties may be recovered by the city in an action in any court of competent jurisdiction. A judgment obtained in such an action shall constitute a lien against the premises with respect to which the violation occurred from the time of the filing of a notice of pendency in the office of the clerk of the county in which such premises is situated. A notice of pendency may be filed at the time of the commencement of the action or at any time before final judgment or order.

f. All civil penalties recovered pursuant to subdivision e of this section shall be deposited into the low and moderate income housing fund established pursuant to subdivision j of section 27-198.2 of the administrative code.

g.(1) The city may institute an action in a court of competent jurisdiction for an order requiring the owner to comply with the order to correct or for such other relief as may be appropriate.

(2) The city may make application for the appointment of a receiver in accordance with the procedures contained in article six of this subchapter. Any receiver appointed pursuant to this paragraph shall be authorized, in addition to any other powers conferred by law, to effect compliance with the provisions of this article. Any expenditures incurred by the receiver to effect such compliance shall constitute a debt of the owner and a lien upon the building and lot, and upon the rents and income thereof, in accordance with the procedures contained in such article six. The city in its discretion may provide funds to be expended by the receiver, and such funds shall constitute a debt recoverable from the owner in accordance with article eight of this subchapter.

h. In the event of any inconsistency between the provisions of this article and other provisions of this code the provisions of this article shall control.

§ 5. Subdivisions a and c of section 27-198.2 of the administrative code of the city of New York shall cease to have any force or effect and shall terminate on December thirty-first, nineteen hundred eighty-six, unless terminated prior to such date by local law.

§ 6. To the extent that this local law has application prior to September first, nineteen hundred eighty-six, the amendments to section 27-198.2 and subchapter four of chapter two of title twenty-seven of the administrative code of the city of New York shall be deemed amendments to former section C26-118.10 and title D of chapter twenty-six, respectively, of such code repealed by chapter nine hundred seven of the laws of nineteen hundred eighty-five.

§ 7. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 8. This local law shall take effect immediately and be retroactive to and deemed in full force and effect as of July eighth, nineteen hundred eighty-six.

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 November 20, 1986, and approved by the Mayor on December 8, 1986.

CARLOS CUEVAS, City Clerk, Clerk of 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 73 of 1986, Council Int. No. 724) contains the correct text and:

Received the following vote at the meeting of the New York City Council on November 20, 1986: 33 for, 1 against.

Was approved by the Mayor on December 8, 1986.

Was returned to the City Clerk on December 8, 1986.

**JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.**