

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2021**

No. 140

Introduced by Council Members Lander, Chin, Kallos, Louis and Barron.

A LOCAL LAW

To amend the administrative code of the city of New York in relation to certifications of no harassment

Be it enacted by the Council as follows:

Section 1. The definition of "pilot program list" in subdivision a of section 27-2093.1 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, the effective date of such local law having been amended by a local law for the year 2021, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended to read as follows:

Pilot program list. The term "pilot program list" means a list of multiple dwellings with six or more dwelling units meeting the criteria set by the department in accordance with subdivision b *of this section*. Such multiple dwelling shall remain on the pilot program list for 60 months *after the date that it is first included on the list*, or until expiration of the local law that added this section, whichever is later. Such list shall be published and maintained on the [websites] *website* of the department [and the department of buildings] and *may be amended and republished as necessary to include additional multiple dwellings*. Such list shall not include any multiple dwelling that:

(1) is subject to any other provision of law or rules, including the zoning resolution, that requires a certification of no harassment as a condition to obtaining approval of construction

documents or an initial or reinstated permit in connection therewith from the department of buildings;

(2) is the subject of a program approved by the commissioner and related to the rehabilitation or preservation of a single room occupancy multiple dwelling or the provision of housing for persons of low or moderate income, other than a program consisting solely of real property tax abatement or tax exemption pursuant to the real property tax law, and has been exempted from the provisions of this section by the commissioner;

(3) contains dwelling units that are required to be and actually are restricted based on income pursuant to an agreement pursuant to the mandatory inclusionary housing program or the voluntary inclusionary housing program and the income-restricted units that are required pursuant to such agreement are occupied at the time of application for a certification of no harassment;

(4) is an exempt luxury hotel as defined by the department in rules;

(5) is a rent regulated institutional residence, the occupancy of which is restricted to non-profit institutional use exempted from the requirements of this section by the department;

(6) is owned by the city or other governmental entity;

(7) is a clubhouse; or

(8) is a college or school dormitory.

§ 2. Subdivision b of section 27-2093.1 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, the effective date of such local law having been amended by a local law for the year 2021, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended to read as follows:

b. Pilot program list. The department shall compile and publish a pilot program list. The criteria used to select buildings to be included on the pilot program list shall be promulgated by the department in rules and shall be limited to:

(1) Buildings with scores on the building qualification index indicating significant distress as determined by the department[, and located within:

- (i) Bronx community district 4,
- (ii) Bronx community district 5,
- (iii) Bronx community district 7,
- (iv) Brooklyn community district 3,
- (v) Brooklyn community district 4,
- (vi) Brooklyn community district 5,
- (vii) Brooklyn community district 16,
- (viii) Manhattan community district 9,
- (ix) Manhattan community district 11,
- (x) Manhattan community district 12,
- (xi) Queens community district 14, and

(xii) Any community district where any part of such district is subject to a city-sponsored neighborhood-wide rezoning after the date of enactment of the local law that added this section.];

(2)(i) Buildings where a full vacate order has been issued by the department or the department of buildings, *except where such vacate order was issued due to a fire*, or (ii) buildings where there has been active participation in the alternative enforcement program [for more than four months since February 1, 2016; and] *which have been discharged from such program;*

(3) Buildings where there has been a final determination by New York state homes and community renewal or any court having jurisdiction that one or more acts of harassment were committed at such building within the 60 months prior to the effective date of the local law that added this section or on or after the effective date of the local law that added this section. The department shall establish a method of identifying buildings where there have been adjudications of harassment after the effective date of the local law that added this section, and may request the cooperation of the tenant harassment prevention task force to establish and effectuate such method. The department shall add a building to the pilot program list within 30 days after it is identified in accordance with such method; *and*

(4) Buildings where an administrator has been discharged under article 7-A of the real property actions and proceedings law unless such building is the subject of a loan provided by or through the department or the New York city housing development corporation for the purpose of rehabilitation, as provided in rules of the department.

§ 3. Subdivision d of section 27-2093.1 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, the effective date of such local law having been amended by a local law for the year 2021, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended by adding a new paragraph 10 to read as follows:

(10) Where the department of buildings issues a stop-work notice or order or rescinds an approval of construction documents at the request of the department pursuant to section 28-505.8 for work without a permit or the required certification of no harassment or the department denies a certification of no harassment pursuant to subparagraph (C) of paragraph (5) of this

subdivision, such stop-work notice, rescission or denial shall be deemed to be a per se finding of harassment in violation of subdivision d of section 27-2005, and the certification of no harassment shall be denied or rescinded, as applicable, and the building shall be restored to its legal configuration prior to commencement of such work.

§ 4. Subparagraph (A) of paragraph (1) of subdivision i of section 27-2093.1 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, the effective date of such local law has been amended by a local law for the year 2021, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended to read as follows:

(A)(i) the owner of record of the pilot program building was the owner of record prior to November 29, 2017; or[,] (ii) with respect to buildings added to the pilot program list on or after October 31, 2021, where eligibility for inclusion on the pilot program list resulted from the amendment of paragraph (1) or the addition of paragraph (4) of subdivision b of this section made by the local law that amended this subparagraph, such owner of record was the owner of record prior to the date of enactment of such local law; or (iii) such owner of record had entered into a contract of sale for the purchase of such pilot program building, which was recorded prior to such relevant date; or[,] (iv) with respect to a certification proceeding where the alterations sought to be performed are of the type prescribed by rule of the commissioner pursuant to item 5 of section 28-505.3, the owner of record of such multiple dwelling was the owner of record of such multiple dwelling prior to the date of the first publication of such rule or had entered into a contract of sale for the purchase of such multiple dwelling which was recorded prior to such date;

§ 5. Paragraph (2) of subdivision i of section 27-2093.1 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, the effective date of such local law having been amended by a local law for the year 2021, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended to read as follows:

(2) the owner acquired the multiple dwelling by sale pursuant to foreclosure of a mortgage or pursuant to a deed in lieu of foreclosure of a mortgage; provided, however, that such conveyance was a bona fide transaction for the purpose of enforcing the debt and not intended to evade the provisions of this section and either:

[(i)] (A) a certification of no harassment or waiver thereof was granted with respect to such multiple dwelling within a [sixty] 60 day period prior to the date of the recording of such mortgage and no suspension or rescission thereof was recorded prior to such date; or

[(ii)] (B)(i) such mortgage was recorded prior to November 29, 2017; or[,] (ii) *with respect to buildings added to the pilot program list on or after October 31, 2021, where eligibility for inclusion on the pilot program list was a result of the amendment of paragraph (1) or the addition of paragraph (4) of subdivision b of this section by the local law that amended this subparagraph, such mortgage was recorded prior to the date of enactment of such local law; or (iii) if such owner is a banking organization as defined in section 2 of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section 4 of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least 20 savings banks or by at least 20 savings and loan associations or a subsidiary corporation all of the capital stock of which is owned*

by such trust company or other corporation, a commitment for such mortgage was made prior to such relevant date.

§ 6. Subdivision (m) of section 27-2115 of the administrative code of the city of New York is amended by adding a new paragraph (7) read as follows:

(7) A court of competent jurisdiction may find that acts of harassment that caused the issuance of a determination by the department denying a certification of no harassment pursuant to section 27-2093 or section 27-2093.1 of this code constitute conduct in violation of subdivision d of section 27-2005 by the applicant for such certification where such applicant was the owner of record when such acts of harassment occurred. Notwithstanding subdivision (o) of this section, as added by local law number 148 for the year 2017, the court upon such finding shall, in addition to any other relief such court determines to be appropriate, award to each lawful occupant of a dwelling unit that was subject to such harassment \$5,000 per dwelling unit, plus reasonable attorneys' fees and costs.

§ 7. Section 28-505.3 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, the effective date of such local law having been amended by a local law for the year 2021, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended to read as follows:

§ 28-505.3 Covered categories of work. Applications for the approval of construction documents for the following categories of work are covered by this article:

1. demolition of all or part of the pilot program building, *other than interior demolition being conducted in the course of renovation of occupied units for the purpose of repair to such units where the commissioner determines that issuance of such permit is necessary to perform work to protect public health and safety;*
2. change of use or occupancy of all or part of a dwelling unit, any residential portion of the pilot program building, or any part of such building serving such dwelling units;

3. any alteration resulting in the addition or removal of kitchen or bathrooms, an increase or decrease in the number of dwelling units, or any change to the layout, configuration, or location of any portion of any dwelling unit;
4. an application for a new or amended certificate of occupancy; or
5. such other types of alteration work to a pilot program building as shall be prescribed by rule of the commissioner of housing preservation and development.

Exceptions:

1. Work solely for the purpose of either (i) making the public areas of a pilot program building accessible to persons with disabilities without altering the configuration of any dwelling unit or rooming unit or (ii) making the interior or the entrance to a dwelling unit or a rooming unit accessible to persons with disabilities shall not be covered by this article.
2. Repairs, demolition or any other work performed by a city agency or by a contractor pursuant to a contract with a city agency shall not be covered by this article.
3. *Repairs, replacement, modification, or partial demolition work in a building that is the minimum required to be performed to address conditions for rescission of a vacate order issued by the department of housing preservation and development or the department.*
4. Work performed on a building that has an administrator currently appointed pursuant to article seven-a of the real property actions and proceedings law shall not be covered by this article.
- [4.] 5. Other categories of work that are excluded from the definition of covered categories of work by rule of the department of housing preservation and development shall not be covered by this article.

§ 8. Section 4 of local law number 1 for the year 2018, the effective date of such local law having been amended by a local law for the year 2021, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended to read as follows:

§ 4. The department, with the advice and assistance that may be provided by any community group described in paragraph (4) of subdivision d of section 27-2093.1 of the administrative code of the city of New York, as added by section two of this local law, shall conduct a study to evaluate

the effectiveness of the program in reducing harassment of tenants in the areas described in subdivision b of section 27-2093.1 of the administrative code of the city of New York as added by section two of this local law. Such study shall be completed and a report shall be submitted to the [Speaker] *speaker of the city council* no later than [6 months prior to the expiration of this local law] *June 27, 2021, provided that an additional such report shall be submitted to the speaker of the city council no later than November 27, 2025.* Such [report] *reports* shall contain the following information:

1. the number of covered buildings where the owner applied for a [certificate] *certification* of no harassment disaggregated by whether the department issued a [certificate] *certification* of no harassment, a cure agreement was reached, or a waiver of a [certificate] *certification* of no harassment;

2. the location of buildings where the department determined that harassment had occurred, disaggregated by community board and council district disaggregated by whether such building was subject to a cure agreement;

3. metrics which the department determines appropriate to determine the preventive impacts of such program;

4. a determination, using such metrics, as to whether such program resulted in preventive impacts;

5. estimated costs of the program to the city; and

6. recommendations for improving the efficacy of such program if the pilot program continues.

§ 9. Section 5 of local law number 1 for the year 2018, as amended by a local law for the year 2021 amending such local law number 1 for the year 2018, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403, is amended to read as follows:

§ 5. This local law takes effect 270 days after it becomes a law except that the departments of housing preservation and development and the department of buildings may promulgate rules or take other administrative action for the implementation of this local law prior to such date. This local law shall remain in effect until [October 31, 2021] *September 27, 2026*, after which date it is deemed repealed. Notwithstanding the repeal of this local law, the provisions of this local law shall remain in effect for any pilot program building which submits an application for construction document approval pursuant to section 28-505.4 of the administrative code of the city of New York, as added by section three of this local law, prior to the repeal of such section. This local law shall not apply to work relating to applications for construction document approval filed with the department of buildings prior to the inclusion of a building on the pilot program list pursuant to subdivision b of section 27-2093.1 of the administrative code of the city of New York , as added by section two of this local law.

§ 10. (i) This local law takes effect immediately and is retroactive to and shall be deemed to be in force and effect on October 31, 2021, provided that a local law amending local law number 1 for the year 2018, relating to extending the certification of no harassment pilot, as proposed in introduction number 2403 for the year 2021, has been enacted by such date.

(ii) The amendments to sections 27-2093.1 and 28-505.3 of the administrative code of the city of New York, as amended by sections one, two, three, four, five and seven of this local law, shall

not effect the repeal of such sections of such administrative code pursuant to section 5 of local law number 1 for the year 2018 as amended by section nine of this local law.

(iii) Section six of this local law shall not apply to determinations by the department of housing preservation and development denying a certification of no harassment pursuant to sections 27-2093 and 27-2093.1 of the administrative code of the city of New York code issued prior to the date of enactment 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 October 21, 2021 and returned unsigned by the Mayor on November 22, 2021.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 140 of 2021, Council Int. No. 2404-A of 2021) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.