Housing & Buildings Committee Staff

Audrey Son, *Senior* *Legislative Counsel*

Taylor Zelony, *Legislative Counsel*

Jose Conde, *Senior Legislative Policy Analyst*

Charles Kim, *Legislative Policy Analyst*

Daniel Kroop, *Senior Financial Analyst*

Brook Frye, *Senior Data Scientist*



**THE COUNCIL OF THE CITY OF NEW YORK**

##### BRIEFING PAPER AND COMMITTEE REPORT OF THE INFRASTRUCTURE DIVISION

Andrea Vazquez, *Legislative Director*

Brad Reid, *Deputy Director, Infrastructure*

**Committee on HOUSING & BUILDINGS**

Hon. Pierina Sanchez, *Chair*

**December 6, 2022**

**Oversight: Examining the City’s Tools for Enforcing the Housing Maintenance Code**

**Int. No. 163:** By Council Members Holden, Yeger, Ariola, Borelli, and Carr

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to requiring photographic documentation evidencing certain violations enforced by the department of housing preservation and development

**Administrative Code:** Adds a new section 27-2091.1

**Int. No. 204:** By Council Members Sanchez, De La Rosa, Richardson Jordan, Joseph, Stevens, Salamanca, Dinowitz, Abreu, Ayala, Feliz, Hudson, Ossé, Hanif, Won, Williams, Cabán, Velázquez, Riley, Avilés, Brewer, Schulman, Restler, Farías, Krishnan, Gutiérrez, Nurse, Kagan, Narcisse, Hanks and, Bottcher

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to raising the inspection fees for certain housing inspections

**Administrative Code:** Amends section 27-2115

**Proposed Int. No. 243-A:** By Council Members Hanif, Sanchez, Stevens, Williams, Joseph, Velázquez, Farías, Schulman, Brooks-Powers, Hanks, Barron, Ossé, Richardson Jordan, Ayala, Restler, Abreu, Narcisse, Krishnan, Riley, Feliz, and Nurse

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to requiring multiple dwelling owners to post notices regarding electric space heater safety

**Administrative Code:** Adds a new section 27-2032.1

**Int. No. 337:** By Council Members Hudson, Louis, Hanif, Ayala, Restler, and Sanchez

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of housing preservation and development to provide annual lists of open housing maintenance code violations to multiple dwelling occupants and tenants

**Administrative Code:** Adds a new section 27-2096.3

**Int. No. 434:** By Council Members Sanchez, Stevens, Farías, De La Rosa, Hudson, Louis, Nurse, Krishnan, Restler, and Brewer

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to expanding the heat sensors program

**Administrative Code:** Amends section 27-2033.1

**Int. No. 484:** By Council Members Marte, Brannan, Nurse, Abreu, and Sanchez

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to requiring photographic documentation evidencing certain violations enforced by the department of buildings

**Administrative Code:** Adds a new section 28-201.5

**Int. No. 583:** By the Public Advocate (Mr. Williams) and Council Members Cabán, Louis, Hanif, Brewer, Joseph, Nurse, Gutiérrez, and Sanchez

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to increasing penalties for violations issued by the department of housing preservation and development and requiring the department of housing preservation and development to maintain a certification of correction watch list and prohibiting any listed landlord from certifying correction of violations in multiple dwellings without an inspection

**Administrative Code:** Amends section 27-2107 and 27-2115

1. **Introduction**

On December 6, 2022, the New York City Council (“Council”) Committee on Housing and Buildings, chaired by Council Member Pierina Sanchez, will hold an oversight hearing on the tools used to enforce the New York City Housing Maintenance Code. The Committee will also consider Int. No. 163, sponsored by Council Member Holden, requiring photographic documentation evidencing certain violations enforced by the Department of Housing Preservation and Development (“HPD”); Int. No. 204, sponsored by Council Member Sanchez, raising fees for certain housing inspections; Proposed Int. No. 243-A, sponsored by Council Member Hanif, requiring multiple dwelling owners to post notices regarding electric space heater safety; Int. No. 337, sponsored by Council Member Hudson, requiring HPD to provide annual lists of open housing maintenance code violations to multiple dwelling occupants and tenants; Int. No. 434, sponsored by Council Member Sanchez, expanding the heat sensors program; Int. No. 484, sponsored by Council Member Marte, requiring photographic documentation evidencing certain violations enforced by the Department of Buildings (“DOB”); and Int. No. 583, sponsored by the Public Advocate Mr. Williams, increasing penalties for violations issued by HPD and requiring HPD maintain a certification of correction watch list and prohibiting any listed landlord from certifying correction of violations in multiple dwellings without an inspection. The Committee expects to hear testimony from the HPD, DOB, the Department of Finance (“DOF”), as well as housing advocates, members of the public, and other interested parties.

1. **Background**

*Code Enforcement in New York City*

In New York City (“NYC” or “City”), housing conditions, such as heat and hot water, lead paint hazards, mold, pests, gas leaks, and fire safety, are primarily governed by requirements set forth in the NYC Housing Maintenance Code (“HMC”). HPD is tasked with enforcing the HMC, and has a Code Enforcement office dedicated to enforcing its provisions, operating primarily through inspections. HPD performs over 500,000 inspections annually and issues violations accordingly.[[1]](#footnote-1)

*Staffing Shortages at HPD*

According to an analysis of budget documents from the NYC Office of Management and Budget (“OMB”) conducted by affordable housing advocacy nonprofit organization New York Housing Conference (“NYHC”), HPD is experiencing a staffing shortage.[[2]](#footnote-2) As of March 2022, the total HPD headcount was 2,244, despite headcounts budgeted for Fiscal Year (“FY”) 2022 and 2023 being 2,640 and 2,698, respectively.[[3]](#footnote-3) Further, the Code Enforcement staff, listed under the Office of Housing Preservation, had a headcount of 881 as of March 2022.[[4]](#footnote-4) Importantly, while HPD had a budgeted allocation for 470 inspectors in FY22, they only had 330 inspectors, a staffing shortage that the NYHC notes does not save City spending as code enforcement is mostly federally funded.[[5]](#footnote-5)

Despite these staffing shortages, the 2022 Mayor’s Management Report (“MMR”) reported 731,684 violations issued by HPD in FY22, an 18 percent increase compared to FY21.[[6]](#footnote-6)

*Reporting Complaints*

NYC residents can report complaints to HPD for the following concerns: quality or safety issues, tenant harassment, and housing discrimination.[[7]](#footnote-7) Such reports are primarily received via the City’s 311 service. HPD’s website directs residents on how to specifically report complaints using 311 for each of the aforementioned issues, and provides additional resources like the NYC Tenant Protection Hotline for Tenant Harassment and information from the NYC Commission on Human Rights for Housing Discrimination.[[8]](#footnote-8)

*Violations*

As part of its code enforcement, HPD issues violations when it comes across property conditions that do not satisfy housing quality and safety standards as set forth in the HMC, as well as other State and City laws relating to housing quality and safety.[[9]](#footnote-9) For all violations besides heat and hot water violations, HPD issues a Notice of Violation (“NOV”) that includes both the violating conditions as well as the legal timeframe required for their correction and certification.[[10]](#footnote-10) HPD is also responsible for enforcing quality standards in Section 8-subsidized housing units in NYC. Violations are classified as follows:

* Class A or Non-Hazardous: includes conditions like an improper seat for a water closet, no street number on the front of the dwelling; owner has 90 days upon receipt of NOV to correct;
* Class B or Hazardous: includes conditions like inadequate lighting facilities for public halls or stairs; owner has 30 days to correct; and
* Class C or Immediately Hazardous: includes lead-based paint, window guards, cockroaches and rats, mold, and heat and hot water violations; owner must immediately correct all heat and hot water violations; has 21 days to correct lead-based paint, window guards, mold, cockroaches and rats violations; and has 24 hours to correct all other class C violations.[[11]](#footnote-11)

Validly registered property owners and managers must submit a Certification of Correction of Violation, which is included with the initial NOV.[[12]](#footnote-12) Certifications of Correction of Violation for lead-based paint violations require additional documents: a sworn statement from the individual who did the remediation work, an EPA Certification for the firm that did the work, a copy of dust wipe results, a copy of the training certificate for the person who conducted the dust wipe, and an affidavit from that person verifying the date and address of the dust wipe sample.[[13]](#footnote-13) When a property is deemed to have successfully corrected its violation, HPD then closes the violation to clear the violation from the property.[[14]](#footnote-14) Validly registered property managers and owners can also apply to certify corrections of HPD violations online through HPD’s “eCertification” tool.[[15]](#footnote-15) Owners and managers who successfully corrected a violation but failed to certify those corrections within the legal time period must apply for a Dismissal Request in order to close the violation on their buildings.[[16]](#footnote-16)

In addition, pursuant to Local Law 117 of 2019, HPD must audit no fewer than 15 percent of all certifications of class C violations filed with the agency while also describing the findings of audits performed in the previous year.[[17]](#footnote-17) The audit includes, at a minimum, an inspection to ensure that the violating condition cited in the initial notice of violation has been corrected.[[18]](#footnote-18) HPD issues annual reports of these audits on its website.[[19]](#footnote-19) In its FY21 report, HPD reported that it issued 159,082 class C violations, of which 60,057 (or 38%) resulted in a filed Certification of Correction.[[20]](#footnote-20) These were across 11,790 buildings.[[21]](#footnote-21) That year, HPD attempted to audit 30,883 of those Certifications of Correction (51%), and successfully completed 22,408 (37%).[[22]](#footnote-22) In that reporting period, HPD found that 7,068 (32% of successful audits) had been falsely certified.[[23]](#footnote-23) HPD initiated 96 false certification cases in FY21, and collected $50,100 in penalties from these cases.[[24]](#footnote-24) In its FY20 report, HPD reported that it issued 149,714 class C violations, of which 57,069 (or 38%) resulted in a filed Certification of Correction.[[25]](#footnote-25) That year, HPD attempted to audit 28,044 of those Certifications of Correction (49%), and successfully completed 20,525 (36%).[[26]](#footnote-26) In that reporting period, HPD found that 5,267 (31% of successful audits) had been falsely certified.[[27]](#footnote-27) HPD initiated 79 false certification cases in FY20, and collected $37,965 in penalties from these cases.[[28]](#footnote-28) In its FY19 report, HPD reported that it issued 128,093 class C violations, of which 44,945 (or 35%) resulted in a filed Certification of Correction.[[29]](#footnote-29) That year, HPD attempted to audit 25,996 of those Certifications of Correction (58%), and successfully completed 19,529 (43%).[[30]](#footnote-30) In that reporting period, HPD found that 5,398 (28% of successful audits) had been falsely certified.[[31]](#footnote-31) HPD initiated 294 false certification cases in FY19, and collected $196,410 in penalties from these cases.[[32]](#footnote-32)

*Correction Orders*

HPD’s code enforcement tools also include Correction Orders to compel owners to perform certain actions with respect to their property; these Orders are enforceable in Housing Court.[[33]](#footnote-33) Orders are mailed to registered owners and filed with the County Clerk’s Office. The types of orders, described in greater detail below, are as follows:

* Order to Repair/Vacate Order: an order that requires owners to correct a building’s conditions and requires occupants to vacate the property until the conditions are corrected. This is issued when a property is uninhabitable either in part or as a whole due to physical conditions including lack of appropriate egress, fire damage or other serious maintenance conditions;
* Alternative Enforcement Program Order to Correct: an order that requires owners of buildings involved in HPD’s Alternative Enforcement Program to correct all violations on a building to a certain minimum level;
* Underlying Conditions Order to Correct: an order that cites systemic conditions or similar conditions throughout a building as causing violations, requiring owners to investigate and address the cause for those conditions;
* Commissioner’s Order: an order that is general in nature and issued when a building is vacated in whole or in part due to fire damage in areas that cannot be specifically accessed;
* Information Order: while not filed with the County Clerk, HPD may issue an Information Order violation if a building is observed to be vacant. The owner must file a Dismissal Request inspection with HPD when the building is legally reoccupied.[[34]](#footnote-34)

Failure to comply with these Orders in a timely manner can result in the assessment of penalties and fees against the building owner.[[35]](#footnote-35)

*Penalties and Fees*

Penalties and fees are another means of enforcement to ensure compliance with the HMC and other housing quality laws and codes. Violations and Correction Orders can result in civil penalties imposed by Housing Court should the owner fail to comply and certify, or falsely certify a correction.[[36]](#footnote-36) Property owners who falsely certify may additionally receive criminal charges.[[37]](#footnote-37) Penalties for uncorrected violations depend on their classification, with class A violations being the least expensive and class C violations being the most expensive, and can include additional penalties that accrue daily until the violations are corrected and certified.[[38]](#footnote-38)

Fees can result from inspections conducted by HPD as required for proper code enforcement. Property owners who fail to file an annual Property Registration with HPD can incur a civil penalty along with not being able to certify corrections of HPD violations or file for Dismissal Requests.[[39]](#footnote-39)

*Tax Delinquency*

HPD’s enforcement actions extend to properties with tax arrears, where the City takes action to collect amounts due, and depending on the property class, condition, and amount of arrears, can include selling a tax lien or foreclosing on the property by bringing an in rem action under the Third Party Transfer Program.[[40]](#footnote-40)

1. **Housing Quality Enforcement Programs**

HPD has a number of tools at its disposal, including the 7A Administrator Program (“7A”), Alternative Enforcement Program (“AEP”), Certificate of No Harassment Program (“CONH”), Emergency Repair Program (“ERP”), Heat Sensors Program, Housing Litigation, and the Underlying Conditions Program to maintain certain minimum housing standards, financially stabilize buildings, and deter tenant harassment. HPD uses their internal data and works with community partners to identify buildings with housing quality issues, assess their conditions, and develop strategies to address those circumstances.

*7A Administrator Program*

Article 7A of the New York State Real Property Actions and Proceedings law allows judges in the Housing Part of the Civil Court of the City of New York to appoint property administrators when the owner of the property has “effectively abandoned” said property, and the conditions at the property are “dangerous to life, health, or safety” of the tenants.[[41]](#footnote-41) A building can be identified for participation in 7A either by HPD, or by tenant petition. Under the court order, the administrator can collect rents and use the money to offer essential services to tenants and make necessary repairs while experienced housing organizations provide the 7A management services.[[42]](#footnote-42) The goal of the 7A program is to stabilize the building, preserve the housing units, and provide safe housing to tenants.[[43]](#footnote-43) According to the Proposed City FY23 Community Development Program, 7A buildings are: in areas that have persistent housing quality issues; under-occupied; and are inclined to have low-income tenants.[[44]](#footnote-44) At some 7A buildings, HPD supplies a limited amount of financial help to make repairs. HPD provides oversight over the activities of the 7A Administrators and administers the loan program.[[45]](#footnote-45)

To qualify as a 7A administrator, HPD requires applicants to be the head of their respective organization or company.[[46]](#footnote-46) HPD also requires applicants to be in operation for at least three years, and have a solid property management background, in good standing with New York State and New York City Government Departments.[[47]](#footnote-47) The applicant must also manage at least 50 dwelling units in the five boroughs of the City and average 100 or more units during the past three years.[[48]](#footnote-48) Fifty of the dwelling units in the applicant's current management portfolio must also be under the jurisdiction of The New York State Division of Housing Community Renewal (“DHCR”).[[49]](#footnote-49) Also, the applicant must employ qualified staff to handle property management responsibilities during office hours, and the 7A Administrator or designated property manager must be available 24 hours a day to address building emergencies.[[50]](#footnote-50)

During the application process, HPD researches all buildings in the company's portfolio and all buildings owned or managed during the past 10 years by the individual applicant, the owners, or management of the organization.[[51]](#footnote-51) The applicant must show that:

* All New York State and New York City registration requirements for their buildings are current and correct;[[52]](#footnote-52)
* They have no liens or tax amounts unpaid;[[53]](#footnote-53)
* All violations given by the Environmental Control Board (“ECB”), DOB, or HPD’s Division of Code Enforcement are at a minimum;[[54]](#footnote-54) and
* The response to any notification of a violation has been timely and allowed for the dismissal of the violation.[[55]](#footnote-55)

HPD also reviews all litigation records, including criminal, bankruptcy and housing related cases, and the status of these cases must be determined by HPD to be acceptable.[[56]](#footnote-56)

Although the 7A program does have the potential to help stabilize buildings, there are concerns with the efficacy of the program in improving tenant living conditions and addressing owner abandonment of property, and questions about ways to improve the program.[[57]](#footnote-57) HPD’s spending on the 7A program depends on the number of buildings in the program.[[58]](#footnote-58) HPD has other code enforcement programs, and HPD’s spending on these programs plays a role in determining how many buildings enter or avoid 7A administration. Additionally, 7A gives judges discretion to either decide on the appointment of an administrator or allow property owners to enter into stipulation agreement to make repairs.[[59]](#footnote-59) In 2003, the Independent Budget Office (“IBO”) spoke to different 7A administrators, who stated that they felt that stipulation agreements were not as effective as a 7A administrator in bringing buildings into good repair.[[60]](#footnote-60) The IBO report noted that in order for stipulations to be effective, there must be a specified period within which property owners must cure the violations, coupled with penalties for violations of the agreement.[[61]](#footnote-61)

There also does not seem to be a clear criterion on how a property exits 7A administration.[[62]](#footnote-62) The 7A program stabilizes buildings in the short-term, but does not provide long-term property management services.[[63]](#footnote-63) IBO revealed that a building could be part of the program for years.[[64]](#footnote-64) Tenants living in a 7A building may fear that the owner could try to regain control of the building once the physical conditions have been improved.[[65]](#footnote-65) The property owner could increase rents, or the building could deteriorate again due to poor management.[[66]](#footnote-66) In FY20, 40 units were discharged from the 7A program or were in compliance with a 7A consent order; 23 units in FY21; and 34 units in FY22.[[67]](#footnote-67)

*Alternative Enforcement Program (“AEP”)*

AEP is an enforcement program for apartment buildings with many housing maintenance code violations,[[68]](#footnote-68) with the aim of improving housing conditions. Under AEP, HPD performs frequent inspections to track correction of violations, issues orders to correct if the owner fails to act, and makes repairs if necessary.[[69]](#footnote-69)

HPD selects multiple dwellings for inclusion in AEP using criteria such as a high number of class B or class C HMC violations, and the dollar value of emergency repair charges incurred by HPD to perform emergency work.[[70]](#footnote-70) Failing to correct the violating conditions may result in emergency repair charges, liens, and significant fees for the property owner. HPD typically selects these buildings on or about January 31st of each year.[[71]](#footnote-71) HPD informs the selected AEP property owners and managers when they are selected, including information on how the property can be removed from AEP.[[72]](#footnote-72) The owner is then responsible to post a sign within 15 days of the notice on the building’s main entrance door. Failure to post this sign may result in a $250 civil penalty.[[73]](#footnote-73)

Owners can have their property removed from AEP by doing the following[[74]](#footnote-74):

* Correcting the following conditions within the first four months of receiving the notification:
  + All heat and hot water violations;
  + All class C violations and at least 80% of class B mold violations;
  + At least 80% of pest violations;
  + At least 80% of all other class B and C violations
* Conducting system replacements, such as of the roof or heating plant;
* Paying all outstanding fees and charges, including liens, complaint inspections, and payments owed for work performed by HPD, or contract with DOF to pay such charges; and
* Submitting a current and valid property registration statement[[75]](#footnote-75)

A building could also be removed from AEP if it has been vacant for at least one year, excluding buildings with six or more units and subject to a Vacate Order, or if the City transfers the property to a third party because the owner did not pay property taxes.[[76]](#footnote-76) In FY20, there were 1,256 units discharged from AEP as a result of owner compliance; 6,484 units in FY21; and 4,135 units in FY22.[[77]](#footnote-77) However, 386 buildings have gone through AEP more than once.[[78]](#footnote-78)

HPD issues an AEP order to correct when an owner does not deal with the qualifying conditions within the first four months.[[79]](#footnote-79) The order to correct is mailed to the owner, posted at the building, and filed with the county clerk. HPD may hire a contractor to perform repairs at the owner’s expense if the owner fails to comply.[[80]](#footnote-80) This could also result in a tax lien against the property if the owner fails to pay. HPD could take legal action against the property owner in Housing Court and could ask a judge to appoint a 7A Administrator to take control of the building to collect rent and make repairs.[[81]](#footnote-81) Owners could be subject to the following fees if the property continues to be in AEP after the first four months:

* $500 per dwelling unit every six months, beginning on the date of the building-wide inspection, with a maximum total fee of $1,000 per dwelling unit during participation in AEP;
* $200 for any complaint inspection performed in the property that results in the issuance of a class B or class C violation; and
* $100 for each re-inspection under a certification of correction of violation submitted to HPD where HPD finds one or more violations have not been corrected.[[82]](#footnote-82)

*Certification of No Harassment (“CONH”)*

Local Law 1 of 2018[[83]](#footnote-83) established a pilot program requiring owners of certain buildings to obtain a CONH before filing for permits at DOB to perform certain construction work.[[84]](#footnote-84) The pilot program was extended by Local Law 140 of 2021.[[85]](#footnote-85) The CONH is necessary if the building is:

* A Single Room Occupancy Multiple Dwelling (“SRO”);[[86]](#footnote-86)
* A multiple dwelling or interim multiple dwelling at one of these geographic areas that are specified in the New York City Zoning Resolution: The Special Clinton District, The Special Hudson Yards District, The Special Garment Center District, The Greenpoint-Williamsburg anti-harassment area, or the Special West Chelsea District[[87]](#footnote-87)
* A multiple dwelling on the CONH Pilot Program Building List: For a building to be eligible for the CONH pilot program the building must have six or more units with significant distress, a full vacate order (except for vacates issued due to fire) between October 21, 2016 and October 31, 2021, an Order issued for a building by AEP if the building is discharged on or after October 31, 2021, the appointment of a 7A administrator at a building then discharged after October 31, 2021, unless the owner is using an HPD or NYC Housing Development Corporation (“HDC”) loan to rehabilitation the building, and a court or DHCR determined that harassment occurred at the building.[[88]](#footnote-88)

Work that requires a CONH includes:

* Full and partial demolition;
* Change of use or occupancy;
* Any alteration that would add or remove kitchens or bathrooms, increase or decrease the number of dwelling units, or change the layout, configuration, or location of any portion of a dwelling unit;
* An application for a new or amended Certificate of Occupancy; or
* In CONH pilot program buildings, removal of a central heating system.[[89]](#footnote-89)

The CONH program aims to ensure that owners do not harass tenants when they seek to conduct alteration or demolition work.[[90]](#footnote-90) When a building owner applies for a CONH, building tenants, community groups, the relevant community board, and elected officials are notified of the application.[[91]](#footnote-91) HPD collects comments from current and former tenants to investigate whether harassment of tenants occurred during the applicable inquiry period.

If HPD has reasonable cause to believe that harassment occurred, a case is brought at the Office of Administrative Trials and Hearings (“OATH”) to determine if harassment occurred at the property.[[92]](#footnote-92) OATH provides HPD with a recommendation as to whether HPD should issue a CONH. If the property owner is denied, an owner cannot obtain permits to alter or demolish the building for a period of 60 months after the denial.[[93]](#footnote-93) Also, depending on the CONH program, the owner could be required to, or have the option of, constructing a certain percentage of low-income housing units to address the harassment finding.[[94]](#footnote-94)

*Emergency Repair Program (“ERP”)*

HPD may correct emergency violations through ERP when a property owner fails to correct violations. HPD may conduct emergency repair work to address class C violations and Orders, DOB Orders and Declarations of Emergency and referrals of certain elevator violations, NYC Department of Health and Mental Hygiene (“DOHMH”) Commissioner’s Orders, and violations of other housing related conditions.[[95]](#footnote-95) If the repair is not made by the property owner, ERP either hires a contractor using an Open Market Order or assigns City employees using HPD’s Handyman Work Orders. Since 2017, the total number of work orders in the Emergency Repairs Program has increased from 16,611 in 2017 to 23,082 in 2022.

|  |  |  |  |
| --- | --- | --- | --- |
| Table A: Work Orders in the Emergency Repairs Program[[96]](#footnote-96) | | | |
| Year | Handyman Work Orders | Open Market Work Orders | Total Work Orders |
| 2022 | 1,072 | 22,010 | 23,082 |
| 2021 | 2,895 | 23,430 | 26,325 |
| 2020 | 2,191 | 18,910 | 21,101 |
| 2019 | 2,748 | 20,251 | 22,999 |
| 2018 | 2,509 | 13,920 | 16,429 |
| 2017 | 1,309 | 15,302 | 16,611 |

Table A shows the number of work orders in ERP for each year between 2017 and 2022, broken down by handyman work orders and open market work orders.

The total charges to property owners for ERP work has increased from $32,047,878.98 in 2017 to $40,192,759 in 2022.

|  |  |  |  |
| --- | --- | --- | --- |
| Table B: Charges in the Emergency Repairs Program[[97]](#footnote-97) | | | |
| Year | Handyman Total Charges | Open Market Total Charges | Total Charges |
| 2022 | $ 93,461.00 | $ 40,099,298.00 | $ 40,192,759.00 |
| 2021 | $ 235,791.91 | $ 58,756,292.00 | $ 58,992,083.91 |
| 2020 | $ 213,678.59 | $ 59,171,006.00 | $ 59,384,684.59 |
| 2019 | $ 386,264.83 | $ 53,334,357.00 | $ 53,720,621.83 |
| 2018 | $ 408,068.40 | $ 28,681,508.00 | $ 29,089,576.40 |
| 2017 | $ 311,277.98 | $ 31,736,601.00 | $ 32,047,878.98 |

Table B shows the total charges for work orders in ERP for each year between 2017 and 2022, broken down by handyman work orders and open market work orders.

The city is subject to certain procurement and wage regulations, which could make emergency repairs significantly more expensive, compared to a contractor that an owner could hire.[[98]](#footnote-98) Once the work is complete, HPD notifies DOF to charge the property owner the cost of the emergency repair and any other costs associated with it.[[99]](#footnote-99) If the property owner fails to pay for the emergency repair, the City could file a tax lien on the property.[[100]](#footnote-100) An unpaid tax lien could then be sold or the property could be foreclosed to collect the amount owed. A property owner can avoid ERP by correcting violations and certifying to HPD that the hazardous conditions were corrected promptly.[[101]](#footnote-101)

According to the FY22 Mayor’s Management Report (“MMR”), there were 363,480 dwelling units in FY20 that had emergency work completed under ERP, but only 40,547 units in FY21 and 42,039 units in FY22.[[102]](#footnote-102)

Although HPD may use City employees to conduct ERP work, HPD generally relies on vendors. HPD may select contractors from a prequalified list of vendors who are able to perform work in various trades, which includes plumbing, electric, extermination and general carpentry.[[103]](#footnote-103) These vendors may be selected from the prequalified list if they meet certain eligibility criteria, set forth in rules of the Procurement Policy Board (“PPB”) and HPD’s fact sheet and application form.[[104]](#footnote-104) On May 13, 2019, the NYC Comptroller’s Office conducted an audit to ascertain whether HPD’s selected contractors met the PPB’s requirements and HPD’s criteria for prequalification, and if open market orders were awarded using HPD’s criteria.[[105]](#footnote-105) In the audit, the Comptroller determined that HPD does not have adequate controls over the prequalification vendor application process in ERP.[[106]](#footnote-106) The comptroller had concerns that HPD did not solicit the minimum number of vendors required to meet the PPB recommendation for open market orders.[[107]](#footnote-107) HPD also failed to remove unresponsive vendors from the prequalified list as required by the PPB.

The report also found that HPD did not maintain evidence that vendors on the prequalified list for construction work have satisfactorily met the eligibility requirements to be included on the prequalified list, thereby increasing the risk that the HPD would select contractors that do not have enough insurance protection or do not have enough experience for the awarded contract.[[108]](#footnote-108) The audit also noted that HPD does not properly enforce the requirement that open market orders do not exceed 10 percent of the estimated cost of the contract work.[[109]](#footnote-109) The audit also determined that open market orders were awarded to vendors with a pending application with HPD since the agency was waiting on licensing and/or insurance documentation.[[110]](#footnote-110) HPD was also found as lacking adequate computer documentation. Because of the audit, the comptroller made the following recommendations:

* HPD should develop written policies and procedures to help comply with PPB Rules. HPD should also enforce the implementation of those procedures;
* HPD should develop reports on HPDInfo to monitor and track the responses of vendors. HPD should review these reports regularly;
* HPD should remove vendors from the prequalified list who do not respond to three consecutive bid solicitations;
* HPD should review and document to make sure no vendor added to prequalified list has not met all the requirements and that any wavers are approved;
* HPD should create standard operating procedures when they process and award open market orders. There should be certain steps HPD should take before a contract is awarded that is over 10 percent of the estimated cost. The staff and management will also need to be trained in these procedures;
* HPD should change HPDinfo functions to require more permission and justification to approve open market orders that are greater than 10 percent of the estimated cost and an estimated cost should be entered;
* HPD should start utilizing process controls in HPDinfo to prevent pending vendors from being solicited for bids and being awarded contracts;
* HPD’s Management Information System should create a HPDinfo user manual; and
* HPD should make sure that standard operating procedures are created for bid solicitations and the awarding of open market orders.[[111]](#footnote-111)

*Heat Sensors Program*

Established by Local Law 18 of 2020,[[112]](#footnote-112) the heat sensors program requires HPD to select 50 class A multiple dwellings with heat violations and heat-related complaints every two years to install internet capable temperature reporting devices (“heat sensors”).[[113]](#footnote-113) Owners of selected buildings must install a heat sensor in the living room of each dwelling unit by October 1 of the year the property was selected. If the owner fails to comply, HPD may issue a class B violation.[[114]](#footnote-114) Tenants could opt out of participation in the program. HPD is required to conduct inspections during the heat season (October 1st through May 31st) at least once every two weeks to see if the property owner complies with indoor temperature requirements set forth in the HMC.[[115]](#footnote-115) These inspections may be discontinued if HPD finds consistent compliance by January 31st of the heat season.[[116]](#footnote-116)

Heat sensors measure indoor air temperature and record that temperature as well as the date and time of such reading.[[117]](#footnote-117) When the heat sensors are installed, the information is accessible to property owners and tenants of the units in which the sensors are placed.[[118]](#footnote-118) If the property owner fails to install heat sensors, fails to provide notice of the requirement to install heat sensors, fails to maintain heat sensors, fails to maintain the records of heat sensors, or fails to provide HPD with the records of the heat sensor, HPD could issue class B violations ($25-$100 each, plus $10 per violation per day). If there is also a heat violation, an inspector can also issue a fine of $250-$500 dollars per day for each heat violation from when the notice is posted at the building until the date the violation is corrected. If there is a subsequent heat violation, HPD could issue a $500-$1,000 fine at the same building for a subsequent violation within two consecutive heating seasons.[[119]](#footnote-119) HPD could also issue an inspection fee of $200 if there is a third or subsequent heat violation with the same heat season or hot water violation within the same calendar year.[[120]](#footnote-120)

*Housing Litigation*

HPD’s Housing Litigation Division (“HLD”) brings cases in Housing Court to correct heat and hot water violations, restore gas service, and in cases where a building has many hazardous violations.[[121]](#footnote-121) The HLD can file comprehensive court cases when it seeks to correct all the violations at a building and it may seek civil penalties when an owner falsely certifies the correction of violations or when HPD is denied access by the property owner.[[122]](#footnote-122) HLD also seeks to enforce orders such as repair or vacate orders, orders issued by AEP, or orders issued by the Underlying Conditions Program.[[123]](#footnote-123) The HLD could also file a court case to have a judge appoint a 7A administrator if the conditions in the building are a danger to the tenants.[[124]](#footnote-124) In FY20, there were 6,690 units; 4,108 units in FY21; and 5,541 units in FY22 that had comprehensive litigation closed due to compliance with an Order to Correct and a payment of any of the civil penalties.[[125]](#footnote-125) The MMR also showed that, as a result of comprehensive litigation closing due to compliance with the Order to Correct, 21,327 violations were dismissed in FY20; 17,428 violations dismissed in FY21; and 31,787 violations dismissed in FY22.[[126]](#footnote-126)

On November 17, 2016, the New York City Comptroller’s Office conducted an audit to evaluate HPD’s efforts to collect monetary judgements from assessed penalties.[[127]](#footnote-127) The audit concluded that most of the money judgements referred to HPD’s Judgement Enforcement Unit (“JEU”) for collection were not actually collected.[[128]](#footnote-128) The audit could not determine the collection rate for the JEU because HPD failed to provide sufficient information about outstanding judgment balances and the payments received by year.[[129]](#footnote-129) The audit also highlighted that a limited number of legal staff were assigned to pursue cases in court and there was a significant backlog in the caseload.[[130]](#footnote-130)

The audit recommended improving HPD’s overall collection rate.[[131]](#footnote-131) The first recommendation would require HPD to work with the Mayor’s Office of Operations to identify the relevant City agencies that administer rental help, tax refunds and other City payments.[[132]](#footnote-132) The City should then cross check HPD’s list of judgment debtors with building owners receiving payments from such City agencies.[[133]](#footnote-133) The second recommendation suggested that HPD should coordinate with relevant City agencies to collect nonexempt funds otherwise payable to HPD’s judgment debtors.[[134]](#footnote-134) These funds should then instead be used to satisfy the outstanding judgments in which monies are owed by those debtors to HPD. The third recommendation suggests that HPD should hire or reassign staff attorneys from other organization areas to JEU to help reduce the backlog.[[135]](#footnote-135) The last recommendation suggests that HPD should transfer some of the caseload to the City’s Law Department, or utilize a collection agency to expand the collection efforts of outstanding money judgements.[[136]](#footnote-136)

*Underlying Condition Program*

The Underlying Conditions Program enables HPD to issue an administrative order to residential building owners to fix class B or C violations related to the existence of mold or water leaks. HPD selects about 50 to 100 buildings per year.[[137]](#footnote-137) To be selected, the class B and class C violations must have been issued in the prior year, and the owner must have failed to properly certify correction, or HPD corrected the violation.[[138]](#footnote-138) The building can also be selected if the building:

* Has three to five units and at least 50% of the units have one violation;
* Has six to nine units and at least 25% of the units have one violation; or
* Has ten units or more and at least 15% of the units have one violation.[[139]](#footnote-139)

HPD could exclude a building from the Underlying Conditions Program if it is a one- or two-family building, is subject to AEP or the appointment of a 7A administrator, comprehensive litigation by HPD, subject to an HPD or HDC preservation loan, or the property was transferred to a new property owner in the past five years after an *in rem* judgment of foreclosure for the City in the Third-Party Transfer Program.[[140]](#footnote-140)

In the Underlying Condition program, properties must investigate the cause of a leak or mold impacting multiple apartments in a building and fix the conditions and related violations within four months and, if needed, HPD could allow a two-month extension.[[141]](#footnote-141) To receive a two-month extension, a property owner must submit documentation to HPD with an affidavit from a New York State (“NYS”) licensed professional engineer or registered architect identifying the underlying condition that is source of the mold or water leak.[[142]](#footnote-142) The property owner would also have to submit an affidavit stating that the underlying condition and related violations will be corrected.[[143]](#footnote-143) This document should have a detailed description on how the work will be performed to correct the underlying conditions and violations. It must also set a deadline for work completion.[[144]](#footnote-144)

If there are no underlying conditions, the owner must submit an affidavit from a NYS licensed professional engineer or registered architect stating that the underlying condition that was the source of the mold and water leaks was properly repaired, and list the contractors that repaired the underlying condition and related issues.[[145]](#footnote-145) The owner would have to also submit a completed Request for Rescission form to exit the program. Before an owner can leave the program, HPD must inspect the site, and at least 80 percent of the mold and water violations need to be repaired.[[146]](#footnote-146)

If the owner is non-compliant, HPD could take the owner to housing court for non-compliance. A contractor could be hired by HPD if the owner violates the underlying condition order.[[147]](#footnote-147) The owner could also be subject to a penalty of $1,000 for each unit and the penalty should not be less than $5,000.[[148]](#footnote-148)

1. **Legislation**

**Int. No. 163**

This bill would require HPD to submit photographic documentation when issuing a notice of violation where the underlying condition is visible and capable of being captured by photograph. This bill would also require HPD to publish a list of violations subject to this requirement on its website.

This legislation would take effect 120 days after becoming law.

**Int. No. 204**

This bill would raise the fee for certain housing inspections from $200 to $500, and up to $1,000, for the third and each subsequent complaint-based inspection within a twelve month period that results in a hazardous or immediately hazardous violation for dwelling units with outstanding hazardous or immediately hazardous violations. This bill seeks to address situations in which tenants or occupants make numerous complaints but landlords still do not make repairs. This bill specifically addresses violations relating to heat (§27-2028), hot water (§ 27-2031), gas-fueled or electric heaters (§ 27-2032) and minimum temperatures to be maintained (§ 27-2029).

This legislation would take effect 180 days after becoming law.

**Proposed Int. No. 243-A**

This bill would require building owners to post notices in common areas for occupants/tenants regarding electric space heater safety. These notices would recommend certain safety measures when purchasing a space heater, where to operate the space heater, keeping children away from the space heater, plugging the space heater into wall, not using an extension cord, and unplugging the space heater when leaving a room or sleeping. These notices would be posted in various languages, including the designated citywide languages and any additional languages as necessary.

This legislation would take effect 180 days after becoming law.

**Int. No. 337**

This bill would require HPD to compile and distribute to tenants or occupants of a multiple dwelling a list of any unresolved violations of the Housing Maintenance Code for such dwelling. HPD would distribute these lists annually by mail.

This legislation would take effect immediately.

**Int. No. 434**

This bill would expand the Heat Sensor Pilot Program that was passed in 2019. This Program requires the installation of heat sensors in individual apartments in buildings that have heat and heat-related violations. Int. No. 434 would increase the number of buildings required to install heat sensors from 50 Class A multiple dwellings citywide to 150 Class A multiple dwellings per borough. This bill would also allow for tenants to opt-in to having the information obtained by the heat sensor transmitted directly to HPD. HPD would be required to draft rules for the issuance of automatic fines when the tenant opts-in to automatic transmission and there is a heat violation, pursuant to N.Y.C. Admin. Code §§ 27-2028, 27-2029.

This legislation would take effect 120 days after becoming law.

**Int. No. 484**

This bill would require DOB to submit photographic documentation when issuing a notice of violation for violations where the underlying condition is visible and capable of being captured by photograph. DOB would also be required to promulgate and publish rules regarding which violations would be subject to this requirement.

This legislation would take effect 120 days after becoming law.

**Int. No. 583**

This bill would increase the penalties for violations issued by HPD. In addition HPD, would be required to annually create a certification of correction watch list. Any owner on the certification of correction watch list would be prohibited from certifying correction of any violation in a multiple dwelling unless HPD has verified by inspection that the violation has actually been corrected.

This legislation would take effect 180 days after becoming law.

1. **Conclusion**

At this hearing, the Committee expects to gain greater insight into the tools at the City’s disposal for enforcing statutory housing quality standards set forth in the Housing Maintenance Code and Multiple Dwelling Law. The Committee expects to receive information about the efficacy of the various programs used, procedures for entering properties into these programs, and efforts to collect debts incurred as a result of corrective action.

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Int. No. 163

By Council Members Holden, Yeger, Ariola, Borelli and Carr

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring photographic documentation evidencing certain violations enforced by the department of housing preservation and development

..Body

Be it enacted by the Council as follows:

Section 1. Article 1 of subchapter 4 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2091.1 to read as follows:

§ 27-2091.1 Photographic Evidence of Violations. a. All notices of violation issued by the department for a violation, which as determined by the commissioner by rule is viewable and capable of being captured by photograph, shall contain a photograph of the underlying condition resulting in the violation.

b. The official record of any subsequent inspection of violations subject to the requirement established in subdivision a of this section and for which a violator was granted an opportunity to cure, must include a photograph confirming that such violation has been cured.

c. The department shall publish on its website a list of violations subject to the requirements of subdivision a of this section.

§ 2.  This local law shall take effect 120 days after its enactment.

Session 12

ARP

LS # 1

4/5/2022

Session 11

JDK

LS # 59

Int. No. 1454-2019

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Int. No. 204

By Council Members Sanchez, De La Rosa, Richardson Jordan, Joseph, Stevens, Salamanca, Dinowitz, Abreu, Ayala, Feliz, Hudson, Ossé, Hanif, Won, Williams, Cabán, Velázquez, Riley, Avilés, Brewer, Schulman, Restler, Farías, Krishnan, Gutiérrez, Nurse, Kagan, Narcisse, Hanks and Bottcher

..Title

A Local Law to amend the administrative code of the city of New York, in relation to raising the inspection fees for certain housing inspections

..Body

Be it enacted by the Council as follows:

Section 1. Subparagraph (i) of paragraph (8) of subdivision (f) of section 27-2115 of the administrative code of the city of New York, as added by local law number 65 for the year 2014, is amended to read as follows:

(8)(i) Notwithstanding any other provision of law, where (A) the department has performed two or more complaint-based inspections in the same dwelling unit within a twelve-month period, (B) each such inspection has resulted in the issuance of a hazardous or immediately hazardous violation, and (C) not all such violations have been certified as corrected pursuant to this section, the department may impose an inspection fee of [two hundred] five hundred dollars for the third and for each subsequent complaint-based inspection that it performs in such dwelling unit within the same twelve-month period that results in the issuance of a hazardous or immediately hazardous violation, provided that the department may by rule increase the fee for inspections performed to no more than one thousand dollars during the period of October first through May thirty-first. Such inspection fee shall be in addition to any civil penalties that may be due and payable.

§ 2. Subparagraph (iv) of paragraph (1) of subdivision (k) of section 27-2115 of the administrative code of the city of New York, as added by local law number 65 for the year 2011, is amended to read as follows:

(iv) Notwithstanding any other provision of law, a person who, after inspection by the department, is issued an immediately hazardous violation for a third or any subsequent violation of section 27-2028, section 27-2031, or section 27-2032 of this chapter at the same dwelling or multiple dwelling within the same calendar year or, in the case of subdivision a of section 27-2029 of this chapter, at the same dwelling or multiple dwelling within the same period of October first through May thirty-first, shall be subject to a fee of [two hundred] five hundred dollars for each inspection that results in the issuance of such violation as well as any civil penalties that may be due and payable for the violation, provided[, however,] that [such] the department may by rule increase the fee for inspections performed to no more than one thousand dollars. Such fee shall not be applicable to inspections performed in a multiple dwelling that is included in the alternative enforcement program pursuant to article ten of subchapter five of this chapter. All fees that remain unpaid shall constitute a debt recoverable from the owner and a lien upon the premises, and upon the rents and other income thereof. The provisions of article eight of subchapter five of this chapter shall govern the effect and enforcement of such debt and lien.

§ 3. This local law takes effect 180 days after it becomes law.

NAW

LS #7160

4/5/2022 9:56 AM

Proposed Int. No. 243-A

By Council Members Hanif, Sanchez, Stevens, Williams, Joseph, Velázquez, Farías, Schulman, Brooks-Powers, Hanks, Barron, Ossé, Richardson Jordan, Ayala, Restler, Abreu, Narcisse, Krishnan, Riley, Feliz and Nurse

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring multiple dwelling owners to post notices regarding electric space heater safety

..Body

Be it enacted by the Council as follows:

Section 1. Article 8 of subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2032.1 to read as follows:

§ 27-2032.1 Electric space heater safety; notice. An owner of a multiple dwelling shall post conspicuously, in a form and manner to be determined by the commissioner, in the common areas of such building notices to occupants and tenants regarding electric space heater safety in the designated citywide languages, as determined pursuant to section 23-1101 and any additional languages as determined by the department in consultation with local community organizations. Each such notice shall recommend:

1. Purchasing an electric space heater with the seal of a qualified testing laboratory, such as Underwriters Laboratories, Inc.;

2. Choosing a heater with a thermostat and overheat protection, including tip-over automatic shut-off functionality;

3. Operating the heater at least 3 feet away from anything flammable;

4. Operating the heater only on a solid, flat surface;

5. Keeping the heater away from heavily trafficked areas in the dwelling;

6. Never blocking a dwelling exit;

7. Keeping children and pets away from the heater;

8. Plugging the heater directly into the wall outlet and never using an extension cord or surge protector;

9. Turning off and unplugging the heater when leaving a room or going to sleep; and

10. Any additional recommendations issued by the department.

§ 2. This local law takes effect 180 days after it becomes law.

CP/TZ

LS #7038

11/25/22 10:35 AM

Int. No. 337

By Council Members Hudson, Louis, Hanif, Ayala, Restler and Sanchez

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of housing preservation and development to provide annual lists of open housing maintenance code violations to multiple dwelling occupants and tenants

..Body

Be it enacted by the Council as follows:

Section 1. Article 1 of subchapter 4 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2096.3 to read as follows:

§ 27-2096.3 Annual notice of open violations in multiple dwellings. No later than January 1, 2023, and annually thereafter, the department shall compile and distribute by mail to the tenants and occupants of each dwelling unit of a multiple dwelling a list of all unresolved violations of this code in such multiple dwelling, as well as short descriptions of each such violation.

§ 2. This local law takes effect immediately.

CP

LS #7032

4/25/22 11:40 AM

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Int. No. 434

By Council Members Sanchez, Stevens, Farias, De La Rosa, Hudson, Louis, Nurse, Krishnan, Restler and Brewer

..Title

A Local Law to amend the administrative code of the city of New York, in relation to expanding the heat sensors program

..Body

Be it enacted by the Council as follows:

Section 1. Section 27-2033.1 of the administrative code of the city of New York, as added by local law number 18 for the year 2020, is amended to read as follows:

§ 27-2033.1 Heat inspections and installation of internet capable temperature reporting devices. a. Definitions. As used in this section, the following terms have the following meanings:

Heat season. The term “heat season” means the period from October 1 through May 31.

Internet capable temperature reporting device. The term “internet capable temperature reporting device” means a device that is capable of measuring the indoor air temperature not less than once per hour and recording such temperature, along with the date and time of such reading, for a period of time not less than the immediately preceding 90 days. Such device must be capable of making such information available through an ordinary internet connection or through other means when no such connection is present. Such information must be accessible to property owners and any tenant of the unit in which such device is placed.

b. 1. No later than July 1, [2020] 2023, and every two years thereafter, the department shall select 150 class A multiple dwellings per borough that shall be subject to the requirements of this subdivision. The department shall select such class A multiple dwellings pursuant to criteria set forth in rules of the department, which shall include, but need not be limited to: (i) the number of violations of subdivision a of section 27-2029 over the preceding two years, and (ii) whether the department has received heat complaints from more than one dwelling unit in such class A multiple dwelling.

2. Annually, for the duration of heat season, the department shall conduct inspections of each class A multiple dwelling selected pursuant to this subdivision at least once every two weeks, without receipt of complaints, for compliance with the requirements of this section, section 27-2028 and subdivision a of section 27-2029, consistent with applicable law and in accordance with rules of the department. If the department has not issued one or more notices of violation of paragraph [three] 3 of this subdivision, section 27-2028 or subdivision a of section 27-2029 to a class A multiple dwelling selected pursuant to paragraph [one] 1 of this subdivision by January 31 of such inspection period, the department may discontinue such inspections in such class A multiple dwelling.

3. For a period of no more than four years, beginning on the date a class A multiple dwelling was last selected pursuant to this subdivision, the owner of each such class A multiple dwelling shall:

(a) Notify all tenants, at a time and manner described in rules promulgated by the department, regarding the requirements of this section, including installation of such devices, instructions on how to access the information collected by such devices, [and] the tenant’s right of refusal, and the tenant’s right to opt in to automatic data transmission;

(b) Provide and install one internet capable temperature reporting device in one living room of each dwelling unit in such class A multiple dwelling by October 1 of the year in which such class A multiple dwelling was selected pursuant to this subdivision;

(c) Replace any such device that was stolen, removed, found missing or rendered inoperable during a prior occupancy of the dwelling unit and was not replaced prior to the commencement of the current occupancy of such dwelling unit;

(d) Replace such device within 30 days after the receipt of written notice provided by the tenant of the dwelling unit where such device is located that such device has become inoperable due to a defect in the manufacture or installation of such device and through no fault of the tenant;

(e) Maintain such records as the commissioner shall prescribe by rule relating to the installation and maintenance of such internet capable temperature reporting devices and collection of heat data from such devices, and make such records available to the commissioner upon request, consistent with applicable law and in accordance with rules of the department;

(f) Maintain a record of reasonable efforts, in accordance with procedures prescribed by rule of the department, to gain access to a tenant’s dwelling unit to install an internet capable temperature reporting device where the owner has been unable to gain such access and such tenant has not refused the installation of such device pursuant to paragraph [six] 6 of this subdivision; [and]

(g) Maintain a written record of the number of each dwelling unit for which the tenant has refused installation of an internet capable temperature reporting device pursuant to paragraph [six] 6 of this subdivision for not less than one year after such owner is no longer subject to the provisions of this section[.]; and

(h) Maintain a written record of the number of each dwelling unit for which the tenant has affirmatively consented to automatic data transmission pursuant to paragraph 7 of this subdivision for not less than one year after such owner is no longer subject to the provisions of this section.

4. The tenant of each dwelling unit in a class A multiple dwelling in which an internet capable temperature reporting device has been provided and installed by the owner pursuant to this section shall:

(a) Keep and maintain such device in good repair; and

(b) Replace any such device that is stolen, removed, found missing or rendered inoperable during such tenant’s occupancy of such dwelling unit, except that the owner may make such replacement and charge such tenant a maximum of $50 for the cost of each such replacement.

5. The owner may not charge the tenant of a dwelling unit for the acquisition or installation of an internet capable temperature reporting device, nor for the replacement of such device where the replacement is due to wear or malfunction or pursuant to subparagraph (c) or subparagraph (d) of paragraph [three] 3 of this subdivision, except as provided in subparagraph (b) of paragraph [four] 4 of this subdivision.

6. A tenant of a dwelling unit in a class A multiple dwelling selected pursuant to this subdivision shall have the option to refuse an internet capable temperature reporting device installed in such tenant’s dwelling unit. The owner of such class A multiple dwelling shall receive from the tenant written confirmation of the tenant’s decision to opt out of such installation.

7. A tenant of a dwelling unit in a class A multiple dwelling selected pursuant to this subdivision shall have the option to have the data obtained by the internet capable temperature reporting device installed in such tenant’s dwelling unit transmitted in real-time to the department. The department shall not collect this data until it has obtained affirmative consent from the tenant that such tenant intends to opt in to automatic data transmission.

[7.] 8. An owner of a class A multiple dwelling who is required to install an internet capable temperature reporting device pursuant to this section may apply to the department for discharge from such obligation in less than four years if the department did not issue any violation of this section, section 27-2028, or subdivision a of section 27-2029 during the immediately preceding heat season, or if such owner has demonstrated to the satisfaction of the department that such owner has taken permanent action to address the provision of heat for the next heat season. The department may establish a discharge process by rule.

c. Where the department has received written confirmation of a tenant’s intent to opt in to automatic data collection by an internet capable temperature reporting device pursuant to paragraph 7 of subdivision b of this section, the department shall prescribe rules to provide for automatic issuance of fines where the internet capable temperature reporting device in such tenant’s unit has indicated that a violation of section 27-2028 or subdivision a of section 27-2029 has occurred.

d. On August 1, [2021] 2024, and annually thereafter, the department shall submit to the mayor and the speaker of the council a report containing, at a minimum:

1. Information about the implementation of the requirements of this section;

2. A list of the class A multiple dwellings selected in the most recent selection cycle pursuant to subdivision b of this section;

3. The number of heat complaints from each of the two immediately preceding heat seasons associated with each class A multiple dwelling on such list;

4. The number of violations of [sections] section 27-2028 and subdivision a of section 27-2029 issued in each of the two immediately preceding heat seasons to each class A multiple dwelling on such list;

5. Where such information is available to the department, whether the owner of a class A multiple dwelling on such list corrected the condition that resulted in any violation of [sections] section 27-2028 [and] or subdivision a of section 27-2029;

6. An evaluation of information that was collected from internet capable temperature reporting devices installed pursuant to this section;

7. The number of complaints received and violations issued during the period of time that the internet capable temperature reporting device was installed pursuant to this section;

8. For the report due August 1, [2021] 2024, the report shall include the information required by paragraphs [two] 2 and [seven] 7 of this subdivision, provided that information required by paragraphs [one, three, four, five and six] 1, 3, 4, 5 and 6 of this subdivision shall be included to the extent available to the department; and

9. For the report due August 1, [2023] 2025, a recommendation based on the information required by paragraph [six] 6 of this subdivision as to whether the requirements of this section should remain in effect.

[d.] e. Failure to install an internet capable temperature reporting device pursuant to paragraph [three] 3 of subdivision b of this section may result in a hazardous violation.

§ 2. This local law takes effect 120 days after it becomes law, except that the department of housing preservation and development shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

NAW

LS #7154

4/27/2022 1:45 PM

Int. No. 484

By Council Members Marte, Brannan, Nurse, Abreu and Sanchez

..Title

A Local Law to amend the administrative code of the city of New York, in relation to requiring photographic documentation evidencing certain violations enforced by the department of buildings

..Body

Be it enacted by the Council as follows:

Section 1. Chapter 2 of Title 28 of the administrative code of the city of New York is amended by adding a new section 28-201.5 to read as follows:

§28-201.5 Photographic Evidence of Violations. a. All notices of violation issued by the department for a violation, which as determined by the commissioner by rule is viewable and capable of being captured by photograph, shall contain a photograph of the underlying condition resulting in the violation.

b. The official record of any subsequent inspection of violations subject to the requirement established in subdivision a of this section and for which a violator was granted an opportunity to cure, must include a photograph confirming that such violation has been cured.

c. The department shall publish on its website a list of violations subject to the requirements of subdivision a of this section.

§ 2.  This local law shall take effect 120 days after its enactment except that except that the commissioner may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date.

Session 12

RMC

LS #8613

5/19/22

Session 11

JDK

LS #10936B/Int 1734/2017

LS #58

11/30/17

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Int. No. 583

By the Public Advocate (Mr. Williams) and Council Members Cabán, Louis, Hanif, Brewer, Joseph, Nurse, Gutiérrez and Sanchez

..Title

A Local Law to amend the administrative code of the city of New York, in relation to increasing penalties for violations issued by the department of housing preservation and development and requiring the department of housing preservation and development to maintain a certification of correction watch list and prohibiting any listed landlord from certifying correction of violations in multiple dwellings without an inspection

..Body

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 27-2107 of the administrative code of the city of New York is amended to read as follows:

a. A person who is required to file a statement of registration or an amendment of a statement of registration or any other statement required under this article and who fails to file as required may, whenever appropriate, be punished under the provisions of article three of subchapter five of this code, and such person shall be subject to a civil penalty of not less than [two hundred and fifty dollars] $500 and not more than [five hundred dollars] $1000, recoverable by the department by civil action in a court of appropriate jurisdiction.

§ 2. Subdivision (a) of section 27-2115 of the administrative code of the city of New York, as amended by local law number 65 for the year 1987, is amended to read as follows:

(a) A person who violates any law relating to housing standards shall be subject to a civil penalty of not less than [ten] one hundred dollars nor more than [fifty] five hundred dollars, and twenty-five dollars per day for each non-hazardous violation, not less than [twenty-five] two hundred fifty dollars nor more than [one hundred] one thousand dollars and [ten] one hundred dollars per day for each hazardous violation, one hundred fifty dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing five or fewer dwelling units, from the date set for correction in the notice of violation until the violation is corrected, and not less than two hundred fifty dollars nor more than [one] seven hundred fifty dollars and, in addition, [one] six hundred twenty-five dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing more than five dwelling units, from the date set for correction in the notice of violation until the violation is corrected. A person willfully making a false certification of correction of a violation shall be subject to a civil penalty of not less than [fifty] five hundred dollars nor more than [two hundred fifty] two thousand five hundred dollars for each violation falsely certified, in addition to the other penalties herein provided.

 § 3. Subdivision (f) of section 27-2115 of the administrative code of the city of New York is amended by adding new paragraphs (9), (10) and (11) to read as follows:

(9) No later than January 15 of each year, the department shall post on its website a certification of correction watch list. Such watch list shall include any person that:

(i) Owns a multiple dwelling that is subject to the alternative enforcement program pursuant to section 27-2153 or has been discharged from such program within the previous two years;

(ii) Has been found to have submitted a false certification of correction to the department within the previous five years; or

(iii) Pursuant to criteria established by rule by the department, should be subject to additional monitoring with respect to the correction of violations. Such criteria shall include, at a minimum, the number and severity of violations occurring in any multiple dwelling owned by such person.

(10) Whenever the department issues a notice of violation to correct a condition in a multiple dwelling owned by a person on the certification of correction watch list, the department shall within fourteen days after the date set for the correction of such violation conduct a final inspection to verify that the violation has been corrected. Notwithstanding any other provision of law, the department shall not deem that any such violation is corrected unless the records of the department contain written verification that the department has conducted a final inspection of the premises and that such inspection verifies that the violation has been corrected.

(11) The department shall establish by rule a process which allows property owners to request removal from the certification of correction watch list and the criteria for such removal.

§ 4. Subparagraph (i) of paragraph (1) of subdivision (k) of section 27-2115 of the administrative code of the city of New York, as amended by local law number 65 for the year 2011, is amended to read as follows:

(k) (1) (i) Notwithstanding any other provision of law, a person who violates section 27-2028, subdivision a of section 27-2029, section 27-2031 or section 27-2032 of this chapter shall be subject to a civil penalty of not less than [two] seven hundred fifty nor more than one thousand five hundred dollars per day for each violation from and including the date the notice is affixed pursuant to paragraph two of this subdivision until the date the violation is corrected and not less than one thousand five hundred nor more than [one] three thousand dollars per day for each subsequent violation of such sections at the same dwelling or multiple dwelling that occurs within two consecutive calendar years or, in the case of subdivision a of section 27-2029, during two consecutive periods of October first through May thirty-first. A person who violates subdivision b of section 27-2029 of this chapter shall be subject to a civil penalty of [twenty-five] fifty dollars per day from and including the date the notice is affixed pursuant to paragraph two of this subdivision until the date the violation is corrected but not less than [one] two thousand dollars. There shall be a presumption that the condition constituting a violation continues after the affixing of the notice.

 § 5. Paragraph (6) of subdivision (l) of section 27-2115 of the administrative code of the city of New York, as added by local law number 1 for the year 2004, is amended to read as follows:

(6) Notwithstanding any other provision of law, a person who violates article fourteen of subchapter two of this chapter by failing to correct such violation in accordance with paragraph one of subdivision a of section 27-2056.11 of this code shall be subject to a civil penalty of [two hundred fifty] five hundred dollars per day for each violation [to a maximum of ten thousand dollars] from the initial date set for correction in the notice of violation until the date the violation is corrected and certified to the department, and in addition to any civil penalty shall, whenever appropriate, be punished under the provisions of article three of subchapter five of this code. There shall be a presumption that the condition constituting a violation continues after the service of the notice of violation. The owner shall be responsible for the correction of all violations noticed pursuant to article fourteen of subchapter two of this chapter, but in an action for civil penalties pursuant to this subdivision may in defense or mitigation of such owner's liability for civil penalties show:

(i) That the condition which constitutes the violation did not exist at the time the violation was placed; or

(ii) That he or she began to correct the condition which constitutes the violation promptly upon discovering it but that full correction could not be completed expeditiously because of serious technical difficulties, inability to obtain necessary materials, funds or labor, or inability to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as might be necessary to make the repair, provided that a postponement was granted pursuant to this subdivision; or

(iii) That he or she was unable to obtain a permit or license necessary to correct the violation, provided that diligent and prompt application was made therefor; or

(iv) That the violation giving rise to the action was caused by the act of negligence, neglect or abuse of another not in the employ or subject to the direction of the owner, except that the owner shall be precluded from showing in defense or mitigation of such owner's liability for civil penalties evidence of any acts occurring, undertaken, or performed by any predecessor in title prior to the owner taking control of the premises. Where the aforesaid allegations are made by way of mitigation of penalties, the owner shall show, by competent proof, pertinent financial data and efforts made to obtain necessary materials, funds or labor or to gain access, or to obtain a permit or license and such other evidence as the court may require.

If the court finds that sufficient mitigating circumstances exist, it may remit all or part of any penalties arising from the violations, but may condition such remission upon a correction of the violation within a time period fixed by the court.

§ 6. This local law takes effect 180 days after it becomes law, except that the commissioner of housing preservation and development shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such date.

Session 12

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Session 11

NAB

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