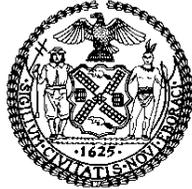


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**THE COUNCIL**

**Committee Report of the Infrastructure Division**

Jeffrey Baker, Legislative Director

Edward Atkin, Deputy Director, Infrastructure Division

**Committee on Housing and Buildings**

Jumaane D. Williams, Chair

**September 20, 2017**

**PROPOSED INT. NO. 934-A**

By Council Members Levin, Reynoso, Chin, Espinal, Johnson, Kallos, Levine, Menchaca, Rosenthal, Gentile, Koo, Lander, Lancman, Rodriguez, Van Bramer, Rose, Richards, Mendez, Cumbo, Cohen, Crowley, Williams, Grodenchik, Cabrera, Dromm, Vacca, Koslowitz, Garodnick, Maisel, Cornegy, Vallone, King, Mealy, Miller, Gibson, Perkins, Torres, Ferreras-Copeland and Ulrich

**TITLE:**

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a real time enforcement unit in the department of buildings

**ADMINISTRATIVE CODE:**

Adds a new section 28-103.26 to article 103 of chapter 1 of title 28

**PROPOSED INT. NO. 1359-A**

By Council Members Levin, Williams, Rodriguez, Rosenthal, Menchaca, Richards, Gentile, Chin and the Public Advocate (Ms. James)

**TITLE:**

A Local Law to amend the administrative code of the city of New York, in relation to auditing buildings for compliance with the affordability requirements of the 421-a tax exemption program

**ADMINISTRATIVE CODE:**

Adds a new title 15 to chapter 26 and adds a new section 11-140 to chapter 1 of title 11

**PROPOSED INT. NO. 1366-A**

By Council Members Williams, Levin, Rodriguez, Rosenthal, Menchaca, Richards, Mendez, Gentile, Chin and the Public Advocate (Ms. James)

**TITLE:**

A Local Law to amend the administrative code of the city of New York, in relation to auditing buildings for compliance with the rent registration requirements of the 421-a tax exemption program

**ADMINISTRATIVE CODE:**

Adds a new title 16 to chapter 26

**PROPOSED INT. NO. 1447-C**

By Council Members Williams, Menchaca, Kallos, Crowley, Lancman, Miller, Dromm, Salamanca, Torres, Constantinides, Johnson, Rose, Reynoso, Levin, Espinal, Grodenchik, Koslowitz, Rodriguez,

Eugene, Maisel, Vacca, Gentile, Cabrera, Treyger, Palma, King, Ferreras-Copeland, Van Bramer, Levine, Garodnick, Richards, Rosenthal, Gibson, Cohen, Cornegy, Lander, Chin, Cumbo, Vallone, Barron, Perkins, Deutsch, Mendez, Koo, Borelli, Ulrich and the Public Advocate (Ms. James) (by request of the Manhattan Borough President)

**TITLE:**

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to construction site safety training and repealing section 3310.10.2 of the New York city building code

**ADMINISTRATIVE CODE:**

Adds a new section 22-509 to chapter 5 of title 22, adds new sections 28-103.28, 28-103.29 and 28-103.30 to article 103 of title 28, adds a new section 28-105.12.9 to article 105 of chapter 1 of title 28, adds a new section 28-112.12 to article 112 of title 28, adds a new item 20 to section 28-201.2.1, amends section 28-202.1, and adds a new section 28-204.1.1 to article 204 of title 28

**BUILDING CODE:**

Amends section 202, amends section 3302.1, repeals section 3310.10.2 and adds a new section 3321

**Introduction**

On September 19, 2017, the Committee on Housing and Buildings, chaired by Council Member Jumaane D. Williams, will hold a hearing for the purposes of conducting a vote on Proposed Int. No. 934-A, Proposed Int. No. 1359-A, Proposed Int. No. 1366-A and Proposed Int. No. 1447-C.

The Committee previously heard Int. No. 934 on April 18, 2016 and received testimony from representatives of the Department of Buildings (DOB), the Manhattan Borough President, housing advocates, legal services providers and members of the real estate industry. More information about this bill is available online at <https://goo.gl/RKMT8e>.

The Committee previously heard Int. No. 1359 and Int. No. 1366 on November 22, 2016 and received testimony from representatives of the Department of Housing Preservation and Development (HPD), the Department of Finance, housing advocates, legal services providers and members of the real estate industry. More information about these bills is available online at <https://goo.gl/wxvU73>.

The Committee previously heard Int. No. 1447 on January 31, 2017 and received testimony from representatives of DOB, members of the real estate and construction industries, and other interested members of the public. More information about this bill is available online at <https://goo.gl/VG8sRm>.

#### **Proposed Int. No. 934-A**

This bill would create a Real Time Enforcement Unit (RTEU) in DOB. The RTEU is tasked with monitoring occupied multiple dwellings with permits for alteration of 10% or more of existing floor surface area of the building, or an addition to the building. The RTEU will also inspect immediately hazardous complaints related to work without a permit in occupied dwellings within 12 hours, and for all other complaints related to work without a permit in occupied dwellings, such inspections shall be conducted within ten days of receipt of the complaint. The RTEU shall also conduct initial inspections of 5% of occupied multiple dwellings

with valid permits for an alteration or addition within 20 days of commencement of work. This legislation takes effect 120 days after it becomes law.

**Proposed Int. No. 1359-A**

This bill would require HPD to audit buildings receiving benefits under the 421-a tax exemption program to determine whether such buildings are complying with the applicable affordability requirements. This legislation takes effect one year after it becomes law.

**Proposed Int. No. 1366-A**

This bill would require HPD to audit buildings receiving benefits under the 421-a tax exemption program to determine whether such buildings are in compliance with applicable rent registration requirements. This legislation takes effect one year after it becomes law.

**Proposed Int. No. 1447-C**

This bill would establish site safety training requirements for workers at certain construction sites. Such workers would be required to receive between 40 and 55 hours of training. The content of such training would be determined by DOB. The bill would also create a task force that includes representatives of the construction industry, minority and women-owned businesses, and day laborers, who would make recommendations regarding the content of such training. Such training requirements will be phased-in over time, with the full training being required, at the latest, by September 1, 2020, depending on the capacity to provide the training to the workers who would need such training.

Additionally, this bill would, among other things, create a program to provide training to individuals who do not have equal access, create civil penalties for violations of the training requirements, and require DOB to report on such violations.

Proposed Int. No. 934-A

By Council Members Levin, Reynoso, Chin, Espinal, Johnson, Kallos, Levine, Menchaca, Rosenthal, Gentile, Koo, Lander, Lancman, Rodriguez, Van Bramer, Rose, Richards, Mendez, Cumbo, Cohen, Crowley, Williams, Grodenchik, Cabrera, Dromm, Vacca, Koslowitz, Garodnick, Maisel, Cornegy, Vallone, King, Mealy, Miller and Ulrich

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a real time enforcement unit in the department of buildings

Be it enacted by the Council as follows:

Section 1. Article 103 of chapter 1 of title 28 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended by adding section 28-103.26 to read as follows:

**§ 28-103.26 Real Time Enforcement Unit.** There is hereby established within the department a real time enforcement unit. Such unit and an agency that is delegated authority by the commissioner shall be responsible for enforcing the construction codes with respect to:

1. occupied multiple dwellings with complaints related to work without a permit; and
2. occupied multiple dwellings with valid permits for (i) the alteration of 10 percent or more of the existing floor surface area of the building or (ii) an addition to the building.

**§ 28-103.26.1 Tracking complaints related to work without a permit.** The real time enforcement unit shall receive and track all complaints related to work without a permit in occupied multiple dwellings. The unit shall retain records of such complaints.

**§ 28-103.26.2 Monitoring occupied multiple dwellings with permits for alteration or addition.** The real time enforcement unit shall monitor all occupied multiple dwellings with valid permits for (i) the alteration of 10 percent or more of the existing floor surface area of the building or (ii) an addition to the building. Owners of such buildings shall notify the department in writing at least 72 hours prior to the commencement of any work pursuant to such permits.

**§ 28-103.26.3 Inspections.** For immediately hazardous complaints related to work without a permit in occupied multiple dwellings, the real time enforcement unit shall conduct inspections of such occupied multiple dwellings within 12 hours of the receipt of such complaints, except that complaints received after 8:00 p.m. shall be inspected by 10:00 a.m. on the following day.

For all other complaints related to work without a permit in occupied multiple dwellings, such unit shall conduct inspections of such multiple dwelling within ten days of receipt of such complaints. The real time enforcement unit shall also conduct initial inspections of no fewer than five percent of occupied multiple dwellings with valid permits for alteration or addition as described in section 28-103.26.2, within 20 days of commencement of work for such alterations or additions and shall conduct periodic unannounced inspections thereafter until such work is complete. The unit shall be available to conduct inspections seven days a week, between the hours of 8:30 a.m. and 10:00 p.m.

**§ 28-103.26.4 Violations.** The real time enforcement unit shall issue notices of violation or stop work orders as necessary.

**§ 28-103.26.5 Report.** The department shall publish online an annual report with the following information related to the effectiveness of the real time enforcement unit: (i) the number of complaints received disaggregated by building; (ii) the average time taken to respond to complaints; (iii) the number of monitored occupied multiple dwellings with valid permits for alteration or addition as described in section 28-103.26.2; (iv) the number of initial and periodic inspections conducted disaggregated by building; and (v) the number and type of violations issued disaggregated by building.

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

FM/MPC  
LS #2764  
9/6/17 1:13pm

Proposed Int. No. 1359-A

By Council Members Levin, Williams, Rodriguez, Rosenthal, Menchaca, Richards, Gentile, Chin and the Public Advocate (Ms. James)

A Local Law to amend the administrative code of the city of New York, in relation to auditing buildings for compliance with the affordability requirements of the 421-a tax exemption program

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 15 to read as follows:

CHAPTER 15

AUDITS FOR COMPLIANCE WITH 421-A TAX EXEMPTION AFFORDABILITY  
REQUIREMENTS

§ 26-1501 Definitions.

§ 26-1502 Audits.

§ 26-1503 Results of audit.

§ 26-1501 Definitions. For the purposes of this chapter:

Affordability requirement. The term “affordability requirement” means any requirement that one or more dwelling units within a building receiving benefits under section 421-a of the real property tax law be occupied by or available for occupancy by individuals or families whose incomes at the time of initial occupancy do not exceed the applicable percentage under such law of the area median income for the primary metropolitan statistical area as determined by the United States department of housing and urban development or its successors from time to time for a family of four, as adjusted for family size.

Department. The term “department” means the department of housing preservation and development.

§ 26-1502 Audits. The department shall audit no fewer than 20 percent of all buildings that have completed construction and are receiving benefits under section 421-a of the real property tax law annually to determine whether the owners of such buildings are in compliance with all applicable 421-a affordability requirements.

§ 26-1503 Results of audit. Where an audit performed pursuant to section 26-1502 reveals that a building owner is not in compliance with the applicable affordability requirements, the department shall take action to bring such building into compliance, which action may include, but need not be limited to, commencing tax exemption revocation proceedings.

§ 2. Chapter 1 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-140 to read as follows:

§ 11-140 Report on revocations. Not less than quarterly, the department of finance shall report to the speaker of the council and to the mayor a plan and a timeline for revocation of benefits under section 421-a of the real property tax law for each designated building for which such department received, during the reporting period, a final notice of revocation of such benefits for noncompliance with applicable affordability requirements or applicable rent registration requirements from the department of housing preservation and development pursuant to chapters 15 and 16 of title 26 of the code.

§ 3. This local law takes effect one year after it becomes law, except that the commissioner of housing preservation and development may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

LS 7739  
JW/GP  
9/7/17 11:30 AM



Proposed Int. No. 1366-A

By Council Members Williams, Levin, Rodriguez, Rosenthal, Menchaca, Richards, Mendez, Gentile, Chin and the Public Advocate (Ms. James)

A Local Law to amend the administrative code of the city of New York, in relation to auditing buildings for compliance with the rent registration requirements of the 421-a tax exemption program

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 16 to read as follows:

CHAPTER 16

AUDITS FOR COMPLIANCE WITH 421-A TAX EXEMPTION RENT REGISTRATION REQUIREMENTS

§ 26-1601 Definitions.

§ 26-1602 Audits.

§ 26-1603 Results of audit.

§ 26-1601 Definitions. For the purposes of this chapter:

Department. The term “department” means the department of housing preservation and development.

Rent registration requirement. The term “rent registration requirement” means any requirement that one or more dwelling units within a building receiving benefits under section 421-a of the real property tax law be fully subject to rent stabilization for a prescribed period, including, but not limited to, the requirement that such units be registered as rent stabilized with the state division of housing and community renewal.

Rent Stabilization. The term “rent stabilization” means, collectively, the rent stabilization law of 1969, the rent stabilization code, and the emergency tenant protection act of 1974, together with any successor statutes or regulations addressing substantially the same matter.

§ 26-1602 Audits. The department shall audit no fewer than 20 percent of all buildings that have completed construction and are receiving benefits under section 421-a of the real property tax law annually to determine whether the owners of such buildings are in compliance with all applicable rent registration requirements.

§ 26-1603 Results of audit. Where an audit performed pursuant to section 26-1602 reveals that a building owner is not in compliance with the applicable rent registration requirements, the department shall take action to bring such building into compliance, which action may include, but need but need not be limited to, commencing tax exemption revocation proceedings.

§ 2. This local law takes effect one year after it becomes law, except that the commissioner of housing preservation and development may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JW/GP  
LS 6733  
9/6/17 2:06 PM

Proposed Int. No. 1447-C

By Council Members Williams, Menchaca, Kallos, Crowley, Lancman, Miller, Dromm, Salamanca, Torres, Constantinides, Johnson, Rose, Reynoso, Levin, Espinal, Grodenchik, Koslowitz, Rodriguez, Eugene, Maisel, Vacca, Gentile, Cabrera, Treyger, Palma, King, Ferreras-Copeland, Van Bramer, Levine, Garodnick, Richards, Rosenthal, Gibson, Cohen, Cornegy, Lander, Chin, Cumbo, Vallone, Barron, Perkins, Deutsch, Mendez, Koo, Borelli and Ulrich, and the Public Advocate (Ms. James), (by request of the Manhattan Borough President)

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to construction site safety training and repealing section 3310.10.2 of the New York city building code

Be in enacted by the Council as follows:

Section 1. Chapter 5 of title 22 of the administrative code of the city of New York is amended by adding a new section 22-509 to read as follows:

§ 22-509 Construction site safety training courses. The department, or an agency or office designated by the mayor, shall by March 1, 2018 develop a program to provide equal access to construction site safety training required by section 3321 of the New York city building code. Such program shall address the needs of individuals who do not have equal access to such training.

§ 2. Article 103 of title 28 of the administrative code of the city of New York is amended by adding new sections 28-103.28, 28-103.29 and 28-103.30 to read as follows:

§ 28-103.28 Site safety training (SST) task force. The commissioner shall convene and provide staff for an SST task force in accordance with the following:

1. Such task force shall be composed as follows:

1.1. The commissioner, or the designee of such commissioner, shall serve as the chairperson of such task force.

1.2. The task force shall consist of 14 members, in addition to the chairperson. Seven of the additional members of such task force shall be appointed by the mayor or the mayor's designee, and seven of the additional members of such task force shall be appointed by the speaker of the council. Such task force shall include members who represent (i) parts of the construction industry that are represented by labor unions or labor organizations, (ii) parts of such industry that are not represented by such unions or organizations, (iii) minority-owned business enterprises or women-owned business enterprises that are certified in accordance with section 1304 of the New York city charter and primarily engaged in construction work and (iv) day laborers.

1.3 All members of the task force shall have significant experience (i) in a construction or demolition related field or (ii) developing or providing construction site safety training, except that one of the members appointed by the mayor pursuant to Item 1.2 may be a municipal officer with experience related to the program to be established pursuant to section 22-509 of the code.

2. Such task force shall meet at least quarterly each year for the first two years of its existence and at least annually for three years thereafter.

3. Such task force shall from time to time on its own initiative or upon request of the commissioner provide the commissioner with recommendations relating to training required by section 3321 of the New York city building code.

4. Such task force shall establish a mechanism for receiving and reviewing recommendations from the public relating to training required by such section.

5. By no later than March 1, 2018, such task force shall provide the commissioner with recommendations relating to the amount of additional SST credits required for satisfying item 1.1 of the definition of limited SST card and the topics that such additional SST credits must cover. Such task force shall consider, but need not include in its recommendations, the following topics insofar as such topics relate to safeguarding the public from potential dangers posed by building sites:

5.1. Fall protection.

5.2. Personal protection equipment.

5.3. Safely working with machines.

5.4. Working with hazardous chemicals or other materials.

- 5.5. OSHA and its role in construction industry safety and health.
- 5.6. Handling heavy materials and proper lifting techniques.
- 5.7. Exit routes, emergency action plans, fire prevention and fire protection.
- 5.8. Confined space awareness.
- 5.9. Walking and working surfaces.
- 5.10. Electrical safety.
- 5.11. Hazard communication.
- 5.12. Concrete operations.
- 5.13. Demolition work.
- 5.14. Excavation work.
- 5.15. Construction and demolition work at major building sites.
- 5.16. Material handling.
- 5.17. Material hoisting.
- 5.18. Site perimeter protection.
- 5.19. Sidewalk sheds and fences.
- 5.20. Steel erection.
- 5.21. Tenant and occupant protection.
- 5.22. Ladders and stairs.
- 5.23. Drug and alcohol awareness.
- 5.24. Asbestos awareness.
- 5.25. Lead awareness.

5.26. First aid, including cardiopulmonary resuscitation (CPR) and automated external defibrillator (AED) use.

**§ 28-103.29 Reporting regarding implementation of section 3321 of the New York city building code.** No later than three months after the end of each fiscal year, the commissioner shall report to the mayor and the speaker of the council, and make publicly available online, a report on implementation of section 3321 of the New York city building code. In addition to any information the commissioner deems relevant, such report shall include:

1. The number of SST providers in existence at the end of such fiscal year.
2. The number of SST cards issued in such fiscal year.
3. The number of temporary SST cards issued in such fiscal year.
4. The number of violations of such section issued in such fiscal year, disaggregated by violation type.
5. A list of building sites where violations of such section were issued and, for each such site, the following information disaggregated by violation type:
  - 5.1. The number of follow-up inspections conducted pursuant to section 28-204.1.1.
  - 5.2. The average frequency of such follow-up inspections.
  - 5.3. The number of violations of section 3321 of the New York city building code issued as a result of such inspections.
6. A description of the enforcement mechanisms used by the department to ensure the integrity of training provided by SST providers in connection with section 3321 of the New York city building code and that such training satisfies the requirements of such section and any rules or department requirements relating to such training.

**§ 28-103.30 Audits of training provided in connection with section 3321 of the New York city building code.** In addition to any other enforcement mechanisms, the department shall periodically audit SST providers and training provided in connection with section 3321 of the New York city building code by such providers in order to ensure the integrity of such training and compliance with such section and any rules or department requirements relating to such training.

§ 3. Article 105 of chapter 1 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-105.12.9 to read as follows:

**§ 28-105.12.9 Safety training required.** No permit for construction or demolition work for which training is required by section 3321 of the New York city building code shall be issued or renewed until the applicant has certified that all workers who will be working under such permit will have the requisite training throughout the duration of such permit.

§ 4. Article 112 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-112.12 to read as follows:

**§ 28-112.12 Reduction in fees or penalties for sponsoring site safety training.** The commissioner shall establish by rule a program for reducing the amount of any fee to be imposed upon a person or any civil penalty to be imposed upon a person for a violation, other than an immediately hazardous violation, where one or more of the following conditions is satisfied:

1. Such person demonstrates, in a form and manner established by the commissioner, that such person has paid, either directly or indirectly, for the costs of one or more workers to obtain the training needed to comply with section 3321 of the New York city building code or has otherwise arranged for such workers to receive such training at no cost to such workers, provided that this shall not include any worker trained pursuant to an agreement that such person was required to enter into pursuant to section 28-204.1.1 or any worker trained under a program developed pursuant to section 22-509.
2. The fee or penalty to be imposed upon such person relates to a building site for which the owner of such site, or a person acting on such owner's behalf, demonstrates, in a form and manner established by the commissioner, that such owner or such person acting on such owner's behalf has paid, either directly or indirectly, for the costs of one or more workers to obtain the training needed to comply with section 3321 of the New York city building code or has otherwise arranged for such workers to receive such training at no cost to such workers, provided that this shall not include any worker trained pursuant to

an agreement such person was required to enter into pursuant to section 28-204.1.1 or any worker trained under a program developed pursuant to section 22-509.

§ 5. Section 28-201.2.1 of the administrative code of the city of New York is amended by adding a new item 20 to read as follows:

20. A second or subsequent violation of section 3321.1 of the New York city building code.

§ 6. Section 28-202.1 of the administrative code of the city of New York, as amended by local law number 59 for the year 2016, is amended to read as follows:

**§ 28-202.1 Civil penalties.** Except as otherwise specified in this code or other law, violations of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department shall be punishable by civil penalties within the ranges set forth below:

1. For immediately hazardous violations, a civil penalty of not less than one thousand dollars nor more than \$25,000 may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than \$1,000 for each day that the violation is not corrected. The commissioner may by rule establish such specified daily penalties.
2. For major violations, a civil penalty of not more than \$10,000 may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than \$250 for each month that the violation is not corrected. The commissioner may by rule establish such specified monthly penalties.
3. For lesser violations, a civil penalty of not more than \$500 may be imposed for each violation.

**Exceptions:**

1. The owner, lessee, occupant, manager or operator of a building affected by a natural or man-made disaster, as determined by the commissioner, shall not be subject to a civil penalty for a violation involving such building if (i) notice of such violation is issued by the department during the 90-day period immediately after such disaster or,

- in the case of a major natural or man-made disaster as determined by the commissioner, during the six-month period immediately after such disaster, and (ii) such violation is corrected on or before 40 days after such disaster period or such greater amount of time as determined by the commissioner for such violation. The notice of such violation shall state that such violation is subject to this exception and shall set forth the procedure and time period for correcting such violation without incurring a civil penalty. This exception shall not apply to immediately hazardous violations, violations charged as aggravated violations or violations without connection to such disaster, as determined by the department.
2. The owner, lessee, occupant, manager or operator of a building where a violation occurs shall not be subject to a civil penalty for such violation if (i) such violation was connected to a natural or man-made disaster, as determined by the commissioner, and (ii) such building is undergoing, or scheduled or under evaluation for, work or acquisition through a city-operated disaster recovery program responding to such disaster.
  3. The owner, lessee, occupant, manager or operator of a building shall not be subject to a civil penalty for a violation resulting from work done by a city employee, or by a third party under contract with the city, in response to a natural or man-made disaster, provided that such violation is corrected on or before 60 days after the issuance of such violation, or such greater amount of time as determined by the commissioner for such violation. If such owner, lessee, occupant, manager or operator of a building can demonstrate to the satisfaction of the department that a city employee or third party under contract with the city has committed to correcting such violation then such violation shall be rescinded, without penalty. The notice of such violation shall state that such violation is subject to this exception and shall set forth the procedure and time period for correcting such violation without incurring a civil penalty. This exception shall not apply to immediately hazardous violations or violations charged as aggravated violations.
  4. The minimum civil penalty for a violation of section 28-408.1 or section 28-410.1 of this code shall be \$2,500 for a first violation and \$5,000 for a second violation, in addition to any separate daily penalty imposed pursuant to item 1 of this section.
  5. For a violation of section 28-210.1:

- 5.1. Unless exception 5.2 applies, the minimum civil penalty for a violation of section 28-210.1 in any building involving the illegal conversion, maintenance or occupancy of three or more dwelling units above the number of dwelling units that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall be \$15,000. Each dwelling unit above the number that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall constitute a separate offense that shall be charged separately and shall be punishable by a separate civil penalty. Provided, however, that the penalties for multiple violations of this exception may be based on the same evidence; and
- 5.2. The owner of a building shall not be subject to a civil penalty for a violation of section 28-210.1 in such building if such owner can show the following:
- 5.2.1. Such violation was the first such violation issued for such building or was issued within 30 days after such first violation;
- 5.2.2. At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, a registration for such building has been properly filed with the department of housing preservation and development in accordance with article two of subchapter 4 of the housing maintenance code; and
- 5.2.3. At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, such owner reasonably did not know of, or could not reasonably have known of such illegal conversion, the maintenance thereof or occupancy thereof and takes lawful immediate and diligent steps to cure said violation.
6. The minimum civil penalty for a violation of section 3321.1 of the New York city building code shall be \$5,000. The department may by rule provide that, for a first violation of such section or a first set of such violations that occur substantially at the same time, the minimum penalty may be reduced to \$2,500.
7. The minimum civil penalty for a violation of section 3321.2 of the New York city building code shall be \$2,500.

§ 7. Article 204 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-204.1.1 to read as follows:

**§ 28-204.1.1 Violations of section 3321 of the New York city building code.** In addition to any other penalties or remedies provided by law or rule, the following items shall apply to violations of section 3321 of the New York city building code:

1. Upon determining that a worker at a building site is not in compliance with section 3321.1 of the New York city building code:

1.1. The commissioner shall issue a notice of violation to the owner of such site, each permit holder responsible for ensuring that such worker complies with such section at such site and the person who employed or otherwise engaged such worker at such site if such person can reasonably be identified. Each such worker shall constitute a separate violation that shall be noticed and charged separately and shall be punishable by a separate civil penalty. It shall be an affirmative defense to such a violation that such worker provided such owner, permit holder or the person who employed or otherwise engaged such worker at such site with an SST card, SST supervisor card, limited SST card, temporary SST card or documentation establishing training in compliance with such section, as appropriate, that reasonably appeared to be valid and applicable to such worker and such owner, permit holder or such person reasonably relied thereon.

1.2. In addition to the requirements of any other law or rule, such violation shall not be deemed corrected until the commissioner determines that, for each such worker, the recipient of such violation shows, in a form and manner established by the commissioner, that such owner, a person acting on behalf of such owner, a permit holder responsible for ensuring that such worker complies with such section at such site or the person who employed or otherwise engaged such worker at such site has entered into a binding agreement that satisfies each of the following conditions:

1.2.1. Pursuant to such agreement, such owner, a person acting on behalf of such owner or a permit holder responsible for ensuring that such worker complies with such section at such site or the person who employed or otherwise engaged such worker at such site shall pay, either directly or indirectly, for the costs of such worker to obtain the training required to comply with such section or will otherwise arrange for such worker to receive such training at no cost to such worker.

1.2.2. Pursuant to such agreement, and provided that such worker is diligently endeavoring to complete the training required by such section, such worker shall continue to be employed or otherwise engaged under the same terms and conditions that applied before such determination by the commissioner until (i) such worker successfully completes the training required to comply with such

section, (ii) work for which such worker was employed or otherwise engaged at such site concludes or (iii) 60 days elapses after such determination, whichever occurs earlier, except that, during such period, such worker shall be paid as if such worker were working at such site 40 hours each week at the same hourly or effective hourly wage such worker was paid before such determination by the commissioner.

2. Upon determining that a permit holder at a building site has not maintained a daily log in compliance with section 3321.2 of the New York city building code, a notice of violation shall be issued to the owner of such site and such permit holder. Failure to maintain such a log establishes a rebuttable presumption that each worker for whom such permit holder is responsible for ensuring compliance with section 3321 of the New York city building code is not compliant with such section and shall result in the issuance of notices of violation under Item 1.
3. Upon a finding by the office of administrative trials and hearings, acting pursuant to section 1049-a of the New York city charter, or a court of competent jurisdiction that a second or subsequent violation of section 3321 of the New York city building code has occurred at a building site, the commissioner shall conduct at least one unannounced inspection of such site at least once every three months to determine compliance with such section. Such inspections shall continue until at least two consecutive inspections do not result in the issuance of a notice of violation of such section.
4. Upon a finding by the office of administrative trials and hearings, acting pursuant to section 1049-a of the New York city charter, or a court of competent jurisdiction that the owner of a building site, a permit holder at such site or a person employing or otherwise engaging workers at such site has violated section 3321 of the New York city building code and such violation is a second or subsequent violation of such section by such owner, permit holder or person, the commissioner shall conduct at least one unannounced inspection of (i) each building site owned by such owner, if such violation is a second or subsequent violation by such owner, (ii) each building site where such permit holder works, if such violation is a second or subsequent violation by such permit holder and (iii) each building site where such person works, if such violation is a second or subsequent violation by such person.

§ 8. Section BC 202 of the New York city building code is amended by adding a definition for “OSHA” in appropriate alphabetical order:

**OSHA.** The United States Department of Labor Occupational Safety and Health Administration.

§ 9. Section 3302.1 of the New York city building code is amended by adding definitions for “100-HOUR TRAINING PROGRAM,” “ACTIVELY PROCTORED ONLINE TRAINING,” “LIMITED SITE SAFETY TRAINING (SST) CARD,” “OSHA 10-HOUR CLASS,” “OSHA 30-HOUR CLASS,” “SITE SAFETY TRAINING (SST) CARD,” “SITE SAFETY TRAINING (SST) CREDIT,” “SITE SAFETY TRAINING (SST) FULL COMPLIANCE DATE,” “SITE SAFETY TRAINING (SST) PROVIDER,” “SITE SAFETY TRAINING (SST) SECOND COMPLIANCE DATE,” “SITE SAFETY TRAINING (SST) SUPERVISOR CARD,” “SITE SAFETY TRAINING (SST) TASK FORCE” and “TEMPORARY SITE SAFETY TRAINING (SST) CARD” in appropriate alphabetical order:

**100-HOUR TRAINING PROGRAM.** A program that (i) includes 100 or more hours of training in technical subjects relating to a construction trade, including an apprenticeship program registered with the New York State Department of Labor, (ii) is approved by OSHA, the United States Department of Labor, the New York State Department of Education or the New York State Department of Labor and (iii) provides training that the department determines is equivalent to or exceeds the training required to comply with Section 3321.

**ACTIVELY PROCTORED ONLINE TRAINING.** Online training that satisfies each of the following conditions:

1. The person responsible for conducting such training confirms the identification of the person taking such training in a manner established by the department.
2. While such training is being conducted, the site of such training is actively observed by or on behalf of the person responsible for conducting such training.
3. Such training complies with any other requirements the department establishes by rule.

**LIMITED SITE SAFETY TRAINING (SST) CARD.** A card that is issued before the SST full compliance date, in a form and manner established by the department and that satisfies each of the following conditions:

1. Such card is issued by an SST provider to a person who submits an application to such provider demonstrating, in a form and manner established by the department, that such applicant satisfies the requirements of Item 1.1, 1.2 or 1.3:
  - 1.1. Such applicant has successfully completed (i) an OSHA 10-hour class and (ii) 20 additional SST credits specified by the department, including eight SST credits relating to safeguarding against the dangers posed by falling workers and objects.
  - 1.2. Such applicant has successfully completed an OSHA 30-hour class.
  - 1.3. Such applicant has successfully completed a 100-hour training program.
2. If such applicant completed the training to comply with Item 1.1, 1.2 or 1.3 but did not complete such training within the five years preceding submission of such application, such applicant has, in the one-year period preceding submission of such application, completed at least eight SST credits specified by the department.
3. Such card is issued by an SST provider who does not require applicants to submit any information except for (i) the information necessary to establish that the requirements in Item 1 have been satisfied, as specified by the department, (ii) a photograph of the applicant and (iii) such additional information as the department may allow by rule.
4. Such card expires on the day before the SST full compliance date and is not renewable.

**OSHA 10-HOUR CLASS.** A class that includes 10 or more hours in construction industry safety and health that is intended for workers and satisfies the following conditions:

1. Such class is (i) approved by OSHA and conducted in accordance with the OSHA outreach training program or (ii) an equivalent 10 or more hour class approved by the department.
2. Such class consists of in-person training, actively proctored online training or, if such training is conducted before the effective date of the local law that added this definition, online training.

**OSHA 30-HOUR CLASS.** A class that includes 30 or more hours in construction industry safety and health that is intended for supervisors and satisfies the following conditions:

1. Such class is (i) approved by OSHA and conducted in accordance with the OSHA outreach training program or (ii) an equivalent 30 or more hour class approved by the department.

2. Such class consists of in-person training, actively proctored online training or, if such training is conducted before the effective date of the local law that added this definition, online training.

**SITE SAFETY TRAINING (SST) CARD.** A card that is issued in a form and manner established by the department and that satisfies each of the following conditions:

1. Such card is issued by an SST provider to a person who submits an application to such provider demonstrating, in a form and manner established by the department, that such applicant satisfies the requirements of Item 1.1, 1.2 or 1.3:
  - 1.1. Such applicant has successfully completed (i) an OSHA 10-hour class and (ii) 30-45 additional SST credits specified by the department, including eight SST credits relating to safeguarding against the dangers posed by falling workers and objects.
  - 1.2. Such applicant has successfully completed (i) an OSHA 30-hour class and (ii) 10-25 additional SST credits specified by the department, including eight SST credits relating to safeguarding against the dangers posed by falling workers and objects.
  - 1.3. Such applicant has successfully completed a 100-hour training program.
2. If such applicant completed the training to comply with Item 1.1, 1.2 or 1.3 but did not complete such training within the five years preceding submission of such application, such applicant has, in the one-year period preceding submission of such application, completed at least eight SST credits specified by the department.
3. Such card is issued by an SST provider who does not require applicants to submit any information except for (i) the information necessary to establish that the requirements in Item 1 have been satisfied, as specified by the department, (ii) a photograph of the applicant and (iii) such additional information as the department may allow by rule.
4. Such card expires five years after issuance and is renewable upon a showing by the applicant that such applicant has, in the one-year period preceding submission of such renewal application, successfully completed eight SST credits specified by the department.

**SITE SAFETY TRAINING (SST) CREDIT.** One hour of training that satisfies each of the requirements of Item 1, 2 and 3:

1. Such training relates to a topic identified by department rule.

2. If such training is conducted on or after the effective date of the local law that added this definition, such training is in-person training or actively proctored online training.
3. If such training is conducted on or after March 1, 2018, such training is conducted by an SST provider.

**SITE SAFETY TRAINING (SST) FULL COMPLIANCE DATE.** Five months after the SST second compliance date, or, if the department publishes a finding that there is insufficient capacity to provide the training required by Section 3321 of the New York city building code to the workers who would need such training, a later date established by the department, provided that such date is not later than September 1, 2020.

**SITE SAFETY TRAINING (SST) PROVIDER.** A person who satisfies the requirements of Items 1 and 2:

1. Such person satisfies at least one of the following conditions:
  - 1.1. Such person has (i) successfully completed all applicable OSHA or department requirements for conducting OSHA 10-hour classes and OSHA 30-hour classes and is authorized to conduct such classes and (ii) if such person is conducting training for SST credits other than training that is part of an OSHA 10-hour class or OSHA 30-hour class, such person demonstrates sufficient knowledge of this chapter in a form and manner established by the department. Such person shall not be required to possess a degree, certificate, license or demonstrate any professional standing beyond showing that such person has completed all applicable OSHA or department requirements for conducting OSHA 10-hour classes and OSHA 30-hour classes and that such person is authorized to conduct such classes.
  - 1.2. Such person is providing training through a 100-hour training program.
  - 1.3. Such person has been approved by the department to conduct a 40-hour course approved by the department pursuant to Article 402 of Chapter 4 of Title 28 of the *Administrative Code*.
  - 1.4. Such person satisfies alternative requirements that the department establishes by rule.
2. On and after the SST full compliance date, such person has certified to the department that such person satisfies at least one of the following conditions:

2.1. Such person has a language access plan for training that relates to SST credits such person offers and such plan complies with requirements established by an agency or office designated by the mayor.

2.2. Such person satisfies each of the following conditions:

2.2.1. Such person is able to provide instruction in a language that students understand.

2.2.2. If a student's vocabulary is limited, such person will accommodate that limitation.

2.2.3. Such person is fluent in the training language or will use translators or interpreters and any such translators or interpreters will have a background in occupational safety and health.

**SITE SAFETY TRAINING (SST) SECOND COMPLIANCE DATE.** December 1, 2018, or, if the department publishes a finding that there is insufficient capacity to provide the training required by Section 3321 of the New York city building code to the workers who would need such training, a later date established by the department, provided that such date is not later than June 1, 2019.

**SITE SAFETY TRAINING (SST) SUPERVISOR CARD.** A card that satisfies each of the following conditions:

1. Such card is issued in a form and manner established by the department to a person who demonstrates that such person has an SST card and has successfully completed an OSHA 30-hour class.
2. Such card expires five years after issuance and is renewable upon a showing by the applicant that such applicant has, in the one-year period preceding such submission of such renewal application, successfully completed 16 SST credits specified by the department.

**SITE SAFETY TRAINING (SST) TASK FORCE.** The task force established pursuant to Section 28-103.28 of the *Administrative Code*.

**TEMPORARY SITE SAFETY TRAINING (SST) CARD.** A card that is issued in a form and manner established by the department and that satisfies each of the following conditions:

1. Such card is issued by an SST provider to a person who demonstrates that such person has successfully completed an OSHA 10-hour class and who is a new entrant to the construction or demolition work force as determined by such provider pursuant to department rules.
2. Such card expires six months after issuance and is not renewable.

§ 10. Section 3310.10 of the New York city building code is amended to read as follows:

**3310.10 Orientation and training.** All workers employed at a major building site shall receive orientation and training as required by this section and section 3321.

§ 11. Section 3310.10.2 of the New York city building code is **REPEALED.**

§ 12. Chapter 33 of the New York city building code is amended by adding a new section 3321 to read as follows:

### **SECTION BC 3321** **CONSTRUCTION SITE SAFETY TRAINING**

**3321.1 Site safety training required.** In addition to any other applicable city, state or federal law or rule, each permit holder at a building site for which a construction superintendent, site safety manager or site safety coordinator is required shall be responsible for the following:

1. On and after March 1, 2018, and until the day before the SST second compliance date, ensuring that each construction or demolition worker employed or otherwise engaged at such site by the permit holder or performing subcontracted work for or on behalf of such permit holder has successfully completed (i) an OSHA 10-hour class, (ii) an OSHA 30-hour class or (iii) a 100-hour training program.
2. On and after the SST second compliance date, and until the day before the SST full compliance date, ensuring that (i) each such worker has an SST card, a limited SST card or a temporary SST card and (ii) each such worker who is serving as a site safety manager, site safety coordinator, concrete safety manager, construction superintendent or a competent person at such site has an SST supervisor card.
3. On and after the SST full compliance date, ensuring that (i) each such worker has an SST card or a temporary SST card and (ii) each such worker who is serving as a site safety manager, site safety coordinator, concrete safety manager, construction superintendent or a competent person at such site shall have an SST supervisor card.

**Exception:** The department may by rule establish alternative training requirements for workers who are (i) working on a building that is four stories or less in height or working on a new building that will, upon completion of such work, be four stories or less in height and (ii) engaged on a volunteer basis by a not-for-profit humanitarian organization that is registered with the New York state charities bureau.

**3321.2 Duties of permit holder.** On and after March 1, 2018, each permit holder at a building site shall be responsible for the following:

1. Ensuring that each construction or demolition worker employed or otherwise engaged at such site by or on behalf of such permit holder complies with the requirements of Section 3321.1.
2. Certifying to the department, in a form and manner established by the department, that the requirements of Section 3321 have been met.
3. Maintaining at such site a daily log, in a form and manner established by the department, that identifies each such worker and that includes, for each such worker, a copy of the SST card, SST supervisor card, limited SST card, temporary SST card or proof of compliance with Item 1 of Section 3321.1, as applicable.
4. Providing such log to the department upon request by the department.

§ 13. This local law takes effect immediately except that section eleven of this local law takes effect on March 1, 2018.

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