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Int. No. 839-A

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A Local Law to amend the administrative code of the city of New York, in relation to making the certification of no harassment pilot program permanent and adding criteria for inclusion of certain buildings in the program

Be it enacted by the Council as follows:

Section 1. Section 27-2093.1 of the administrative code of the city of New York, as amended by local law number 140 for the year 2021, paragraph (10) of subdivision d, as added by local law number 140 for the year 2021, and the definition of “pilot program list” in subdivision a, subdivision b, subparagraph (A) of paragraph (1) of subdivision i, and paragraph (2) of subdivision i, as amended by local law number 140 for the year 2021, is amended to read as follows:

§ 27-2093.1 Certification of no harassment with respect to [pilot] program buildings. a. Definitions. As used in this section the following terms have the following meanings:

Building qualification index. The term "building qualification index" means an index created by the department and promulgated in rules to evaluate prospective [pilot] program buildings for distress based on the department's records of open and closed hazardous and immediately hazardous violations of the housing maintenance code, records of paid and unpaid liens for expenses incurred by the department for the repair or elimination of dangerous conditions under the emergency repair program, change of ownership, or any other factor that reasonably indicates distress and would qualify such building for the certification of no harassment [pilot] program as determined by the department.

Certification of no harassment. The term "certification of no harassment" means a certification by the

department that no harassment of any lawful occupants of a [pilot] program building occurred during the 60 month period prior to the filing of an application for such certification pursuant to this section.

[City-sponsored neighborhood-wide rezoning area. The term "city-sponsored neighborhood-wide rezoning area" means an area of the zoning map for which:

(1) amendments to the zoning regulations pertaining to such area were proposed by the City;

(2) the city planning commission approved or approved with modifications such amendments for a matter described in paragraph 3 of subdivision a of section 197-c of the charter;

(3) the city planning commission decision was approved or approved with modifications by the council pursuant to section 197-d of the charter and is not subject to further action pursuant to subdivision e or f of such section;

(4) the zoning map amendments increased the permitted residential floor area ratio within the rezoned area by at least 33 percent; and

(5) the amendments involved at least 10 blocks of real property in such area.]

Covered categories of work. The term "covered categories of work" has the meaning set forth in section 28-505.3.

Harassment. The term "harassment" has the meaning set forth in [subdivision] paragraph 48 of subdivision a of section 27-2004, and includes, but is not limited to, refusing to perform required maintenance on the basis of an occupant's immigration or citizenship status and threatening to report an occupant to federal immigration authorities as such term is defined in section 9-131.

Low income housing. The term "low income housing" means dwelling units that, upon initial rental and upon each subsequent rental following a vacancy, [is] are affordable to and restricted to occupancy by individuals or families whose household income does not exceed an average of 50 percent of the area median income, adjusted for family size, at the time that such household initially occupies the dwelling unit, provided that with respect to low income housing units provided pursuant to a cure agreement in accordance with

subdivision e of this section, one-third of such low income housing units shall be available at 40 percent of the area median income, one-third of such units shall be available at 50 percent of the area median income and one-third of such units shall be available at 60 percent of the area median income.

[Pilot program] Program building. The term "[pilot] program building" means a multiple dwelling included on the [pilot] program list.

[Pilot program] Program list. The term "[pilot] program list" means a list of multiple dwellings with [six] 6 or more dwelling units meeting the criteria set by the department in accordance with subdivision b of this section. [Such multiple dwelling shall remain on the pilot program list for 60 months after the date that it is first included on the list, or until expiration of the local law that added this section, whichever is later. Such list shall be published and maintained on the website of the department and may be amended and republished as necessary to include additional multiple dwellings.] Such list shall not include any multiple dwelling that:

(1) [is] Is subject to any other provision of law or rules, including the zoning resolution, that requires a certification of no harassment as a condition to obtaining approval of construction documents or an initial or reinstated permit in connection therewith from the department of buildings;

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

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

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

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

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

(7) [is] Is a clubhouse; or

(8) [is] Is a college or school dormitory.

Tenant harassment prevention task force. The term "tenant harassment prevention task force" or "task force" means representatives of city and state agencies that combine to combat tenant harassment through coordinated enforcement actions.

b. [Pilot program] Program list. [The] By April 15, 2027 and by April 15 every 3 years thereafter, the department shall compile and publish a [pilot] program list. Such list shall remain in effect until publication of a new program list. The department shall include on any new program list any building that continues to meet the criteria described in this subdivision. The department shall publish and maintain such list on the website of the department and update such list at least monthly to add new buildings that meet such criteria. The criteria used to select buildings to be included on [the pilot] a program list shall be promulgated by the department in rules and shall [be limited to] include the following:

(1) Buildings with scores on the building qualification index indicating significant distress as determined by the department, provided that such scores shall be calculated every 3 years and be based on violations, incidents, or actions included in such building qualification index that occurred within the prior 60 months;

(2)(i) Buildings where a full vacate order has been issued by the department or the department of buildings within the prior 60 months, except where such vacate order was issued due to a fire, or (ii) buildings where there has been active participation in the alternative enforcement program which have been discharged from such program within the prior 60 months;

(3)(i) Buildings where there has been a final determination by New York state homes and community

renewal or any court having jurisdiction that [one] 1 or more acts of harassment were committed at such building within the [60 months prior to the effective date of the local law that added this section or on or after the effective date of the local law that added this section] prior 60 months and (ii) buildings that have the same owner, as indicated by information provided on the registration statement filed pursuant to section 27-2097, as buildings that meet the criteria set forth in subparagraph (i) of this paragraph. The department shall establish a method of identifying buildings where there have been adjudications of harassment after the effective date of the local law that added this section, and may request the cooperation of the tenant harassment prevention task force to establish and effectuate such method. The department shall add a building to the [pilot] program list within 30 days after it is identified in accordance with such method; [and]

(4) Buildings where an administrator has been discharged under article 7-A of the real property actions and proceedings law within the prior 60 months unless such building is the subject of a loan provided by or through the department or the New York city housing development corporation for the purpose of rehabilitation, as provided in rules of the department; and

(5) Buildings with the same owner, as indicated by information provided on the registration statement filed pursuant to section 27-2097, as buildings that have been denied a certification of no harassment or had a certification of no harassment rescinded by the department within the prior 60 months.

b-1. Notification of program list. (1) The department shall provide notice to the owner, as indicated by information provided on the registration statement filed pursuant to section 27-2097, of each building included on a program list after the effective date of the local law that added this subdivision and to such other interested persons as the department shall identify.

(2) Such owner shall be required to post such notice in a conspicuous place in such building, including, but not limited to, the common areas. When the department is on the premises of a program building for any purpose required by this chapter, the department shall determine whether such notice is posted in a conspicuous place in such building. Failure to post such notice shall constitute a non-hazardous violation. Any owner who

fails to post such notice shall be liable for a civil penalty pursuant to subdivision (a) of section 27-2115.

(3) Upon publication of the initial program list published after the effective date of the local law that added this paragraph and upon publication of a new program list published every 3 years thereafter, the department shall provide notice to the council member and community board representing the district in which the program building is situated.

c. Certification of no harassment required. (1) In accordance with article 505 of chapter 5 of title 28, a [pilot] program building shall be required to obtain a certification of no harassment or waiver of such certification as a condition to obtaining approval of construction documents or an initial or reinstated permit in connection therewith by the department of buildings for any covered categories of work.

(2) Except as otherwise provided in this section, if a certification of no harassment is denied, no such approval or permit shall be issued by the department of buildings for 60 months after such denial.

d. Application. (1) An application for a certification of no harassment shall be in such form and shall contain such information as shall be prescribed by the department.

(2) Upon the receipt of an application for a certification of no harassment, the department shall publish notice in a publication of general circulation for a period of [seven] 7 consecutive days, shall [mail] provide notice to the owner at the address or contact provided on the application and the address or contact provided in the last registration with the department, [as well as to the owner who appears on the last deed recorded on the records of the department of finance,] such occupants as the department shall identify, any community group designated by the department to survey the building, such other interested persons as the department shall identify, the local community board, city council member representing the district in which such building is situated, and appropriate government agencies, and shall post notice in a conspicuous place, including but not limited to the building's common areas, at the [pilot] program building for which the certification of no harassment is sought.

(3) The notice shall be published in English and in any other language prevalent in the district, as

determined by the commissioner, and shall include a statement that such notice is available in any [covered] designated citywide language, as defined in [subdivision j of section 8-1002] section 23-1101. Such notice shall also contain:

(i) [the] The location and general description of the [pilot] program building for which the certification is sought;

(ii) [a] A description of the certification procedure and its purpose, including a reference to section 28-505.3 defining work for which a certification of no harassment is required;

(iii) [the] The contact information for the community group designated by the department to survey the building and its occupants;

(iv) [the] The period of time covered by the inquiry, which shall be 60 months prior to the filing of the application for a [certificate] certification of no harassment pursuant to this section;

(v) [a] A description, and at least 3 examples, of conduct constituting harassment and inclusion of the website address for the mayor's office to protect tenants, or any successor office; [and]

(vi) [that] That the owner and any occupants or former occupants of the [pilot] program building, for which such certification is sought and other interested persons, government agencies, and the local community board, are invited to submit their comments within 45 days of the date of such notice in writing or orally at a designated location, provided that the department may, for good cause, extend the time for the submission of such comments for an additional 15 days; and

(vii) The website address for the office of immigrant affairs and state that any occupant or former occupant of the program building may submit a report of discrimination on the basis of immigration or citizenship status, as such term is defined in section 8-102, to the New York city commission on human rights.

(4)(i) The department may designate a community group to conduct a survey of the occupants of the [pilot] program building with respect to harassment in the [pilot] program building and to report its findings to the department. The community group shall provide a copy of the notice required by this subdivision to

occupants. Based upon the findings of such community group or the department's review of records and other data, the department may determine that it is necessary to conduct a further investigation.

(ii) In conducting an investigation, the department may request from the New York city commission on human rights any reports of discrimination on the basis of immigration or citizenship status made on behalf of an occupant or former occupant of the program building, and shall notify the office of immigrant affairs when the department considers any such report as part of such investigation.

(5) Upon the completion of any such survey, department review of records, and further investigation, the department may:

[(A) determine] (i) Determine that no harassment has occurred within the stated period of time and forthwith grant such certification of no harassment[.];

[(B) deny] (ii) Deny a certification of no harassment without a hearing if there has been a finding by New York state homes and community renewal or any court having jurisdiction that there has been harassment, unlawful eviction, or arson by or on behalf of the owner during the stated period of time; or

[(C) where] (iii) Where there has been no prior determination of harassment, unlawful eviction, or arson by or on behalf of the owner, provide that a hearing be held at the office of administrative trials and hearings if the department has reasonable cause to believe that harassment has occurred within such stated period of time. The owner of the [pilot] program building for which a certification of no harassment is sought shall have the opportunity to be heard at such hearing prior to the granting or denial of such certification. The department may receive testimony from tenants, community groups, and any other interested parties, and may include as part of the hearing record evidence or allegations that the owner of the program building interfered with the survey or investigation. Notice of such hearing shall be given to the applicant in the manner prescribed by the office of administrative trials and hearings. Within 45 days after the office of administrative trials and hearings issues a report and recommendation, the department shall either grant or deny such certification of no harassment.

(6) If a certification of no harassment is denied, notice of such denial accompanied by written findings

indicating the grounds for such denial shall be [mailed] provided to the applicant and owner of record and shall be filed in the office of the city register or the Richmond county clerk.

(7) A final determination on an application for a certification of no harassment shall be subject to review pursuant to article 78 of the civil practice law and rules.

(8) Where the department has denied or rescinded a certification of no harassment for a [pilot] program building the department of buildings shall not approve construction documents or issue or renew permits for covered categories of work in such building for a period of 60 months after such denial or rescission unless the owner enters into an agreement with the department to cure the record of harassment in accordance with subdivision e of this section.

(9) Before a certification of no harassment may be granted, an applicant shall submit a sworn statement, in such form as the department shall prescribe, by all the owners of the [pilot] program building representing that there will be no harassment of the occupants of such building by or on behalf of such owners. The corporation counsel may institute any action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of this representation and agreement. Nothing contained herein shall preclude an occupant of such [pilot] program building from applying on his or her own behalf for similar relief.

(10) Where the department of buildings issues a stop-work notice or order or rescinds an approval of construction documents at the request of the department pursuant to section 28-505.8 for work without a permit or the required certification of no harassment or the department denies a certification of no harassment pursuant to subparagraph [(C)] (iii) of paragraph (5) of this subdivision, such stop-work notice, rescission or denial shall be deemed to be a per se finding of harassment in violation of subdivision d of section 27-2005, and the certification of no harassment shall be denied or rescinded, as applicable, and the building shall be restored to its legal configuration prior to commencement of such work.

e. Cure agreement. (1) An agreement to cure the record of harassment at a [pilot] program building shall

require the owner to engage in or provide for, through an entity identified by the department as capable of developing new affordable housing in the same community district as the [pilot] program building, the construction of floor area of low income housing, either within the [pilot] program building, in a new building at the same site as the [pilot] program building or such same community district, in accordance with rules promulgated by the department, provided that such owner shall construct or provide within such building or community district no less than the greater of: (i) 25 percent of the total residential floor area of such [pilot] program building undergoing covered work in which harassment has occurred, or (ii) 20 percent of the total floor area of any new or [pilot] program building undergoing covered work on the lot containing the [pilot] program building subject to such agreement.

(2) The owner shall record and index a restrictive declaration with respect to such agreement with the city register or the Richmond county clerk.

(3) The department shall promulgate rules providing for the administration and enforcement of such an agreement, and shall establish criteria for such an agreement to ensure the effective implementation thereof. Such rules shall include a requirement that lawful tenants who resided in the [pilot] program building during the 60 month period prior to the determination to deny the certification of no harassment or prior to the rescission of a certification of no harassment shall have priority in the allocation of low income units constructed by the owner within the [pilot] program building or in a new building at the same site as the [pilot] program building if they otherwise qualify for such units.

(4) The owner shall attest, as part of such agreement, that no such construction of floor area of low income housing required under paragraph (1) of this subdivision shall be used by the owner to satisfy an eligibility requirement of any real property tax abatement or exemption program, or of a floor area ratio increase pursuant to section 23-90 of the zoning resolution or any successor provision, for which the owner otherwise may be eligible to apply, or to apply for a hardship waiver from any existing code or zoning resolution requirements. The department shall ensure that floor area of low income housing required under

paragraph (1) of this subdivision is in addition to and not in substitution for floor area of low income housing that may be used by the owner to satisfy an eligibility requirement of any real property tax abatement or exemption program, or of a floor area ratio increase pursuant to section 23-90 of the zoning resolution or any successor provision, for which the owner may apply. The department shall ensure that a city, state or federal subsidy shall not be used for the construction of low income housing required under paragraph (1) of this subdivision.

f. Removal from program list. (1) The owner of a building added to the program list pursuant to the building qualification index may request such building be removed from such program list.

(2) The department shall accept an application to remove a building from the program list beginning 180 days after the creation of the program list on which such building first appears. To request a building be removed from a program list, the owner shall submit to the department:

(i) An application for removal from the program list in a form prescribed by rule of the department; and

(ii) An application to request dismissal of violations issued pursuant to chapter 2 of this title in accordance with chapter 9 of title 28 of the rules of the city of New York. The department shall attempt to inspect each dwelling unit and public area in the program building at the time of the dismissal request re-inspection, in accordance with department rules.

(3) A building may not be removed from a program list:

(i) If such building is included on the list of buildings determined to have falsely certified the correction of hazardous violations or immediately hazardous violations, as described in subparagraph (ii) of paragraph 3 of subdivision f of section 27-2115;

(ii) If such building is subject to an order to correct an underlying condition pursuant to subdivision c of section 27-2091;

(iii) If such building has an open violation for visible mold pursuant to section 27-2017.3;

(iv) If such building has an open violation for infestation by pests pursuant to section 27-2017.4 on the

date of such building is placed on such program list, unless the owner provides an integrated pest management plan in accordance with section 27-2017.8;

(v) If such building has open violations for heat, cooling, or hot water pursuant to article 8 of subchapter 2 of this chapter;

(vi) If such building has an open lead-based paint violation pursuant to article 14 of subchapter 2 of chapter 2 of this title;

(vii) If such building has an open violation for the supply of gas or electricity to a kitchen pursuant to subdivision a of section 27-2070;

(viii) If such building has unpaid civil penalties imposed pursuant to section 27-2115;

(ix) If such building has unpaid charges for a repair incurred pursuant to section 27-2125 or 27-2127; or

(x) If a record of a false certification has been filed with respect to such building since the creation of such program list.

(4) The department shall determine whether to remove a building from the program list within 30 days of the completion of the dismissal request re-inspection described in subparagraph (ii) of paragraph (2) of this subdivision. The department shall remove such building provided that an owner has complied with all of the requirements of this subdivision and any other requirement provided in rules promulgated by the department, paragraph (3) of this subdivision does not prohibit the removal of such building, and on the date the determination is made to remove such building from such list, for any violations not described in subparagraphs (iii) through (vii) of paragraph (3) of this subdivision, that were open on the date of the request for removal, or that have been issued after such date:

(i) No more than 20 percent of all immediately hazardous violations are open;

(ii) No more than 20 percent of all hazardous violations are open; and

(iii) No more than 20 percent of all non-hazardous violations are open.

[f] g. Suspension and rescission of a certification. (1) The department may rescind a certification of no

harassment that was granted for a [pilot] program building if it finds that harassment has occurred at such building while such certification was in effect, as described by this subdivision.

(2) During the effective period of a certification of no harassment, the occupants of the program building may submit to the department a request to rescind such certification of no harassment. Upon receipt of such request, the department shall investigate such request. If, at the conclusion of such investigation, the department has reasonable cause to believe that harassment has occurred at such building, the department shall schedule a hearing before the office of administrative trials and hearings, for the purpose of determining whether to rescind such certification of no harassment.

(3) If the department has reasonable cause to believe that harassment has occurred during the effective period of a certification of no harassment, the commissioner shall suspend the certification of no harassment for the [pilot] program building. Upon the request of the department, the department of buildings shall not approve any construction documents or issue an initial or reinstated permit in connection with covered categories of work or, if such documents have been approved or such permit has been issued, may issue a stop-work [notice and] order pursuant to section [28-505.6] 28-505.8. Notice of such a suspension of a certification of no harassment shall be [mailed] provided to the applicant, the owner of record of such [pilot] program building, and known tenants of such building, [and shall] be filed with the city register or Richmond county clerk, and be posted in a conspicuous place, including, but not limited to, the common areas in such program building.

[(3)] (4) As soon as reasonably possible after a request for a hearing by an owner who has received a notice of suspension, but not later than 30 days after such suspension, the department shall commence a proceeding at the office of administrative trials and hearings by filing the required pleadings. At the hearing, the owner of a [pilot] program building for which a certification of no harassment has been suspended shall have the opportunity to be heard. Notice of such hearing shall be given to the applicant, such other persons, and known tenants of such building in the manner prescribed by the office of administrative trials and hearings. The department may receive testimony from such other persons and known tenants of such building. The

department shall determine whether to rescind the certification of no harassment within 45 days of receiving the report and recommendation from the office of administrative trials and hearings.

[(4)] (5) If the owner has been found by New York state homes and community renewal or any court having jurisdiction to have engaged in harassment, unlawful eviction, or arson at the [pilot] program building after the certification of no harassment was granted, the department may determine whether to rescind such certification without commencing a proceeding at the office of administrative trials and hearings.

[(5)] (6) If the department determines not to rescind such certification of no harassment, the department shall notify the department of buildings of such determination and any stop work notice and order issued by the department of buildings pursuant to section [28-505.6] 28-505.8 shall be vacated immediately. Notice of such determination shall be [mailed] provided to the owner of record of such [pilot] program building, the known tenants of such building and filed with the city register or the Richmond county clerk.

[(6)] (7) If the department determines that such certification of no harassment shall be rescinded, notice of such determination accompanied by written findings indicating the grounds for such determination shall be provided to the department of buildings and shall be [mailed] provided to the owner of record of such [pilot] program building and filed with the city register or the Richmond county clerk. Such determination shall be subject to review pursuant to article 78 of the civil practice law and rules.

[g] h. The department shall provide notice to the occupants of a program building and the community group designated to conduct a survey when the department approves, denies, suspends, or rescinds a certification of no harassment. For notices pertaining to the approval of a certification of no harassment, such notice shall include information on the potential suspension or rescission of such certification, as described in subdivision g of this section, and the option for such occupants to submit a request to rescind such certification. For the purpose of any subsequent proceeding with respect to a [pilot] program building, the granting of a certification of no harassment or a waiver thereof for any period of time shall be conclusive proof only for the purposes of this section that no harassment occurred within the time period covered by such certification or that

the waiver of such certification for such time period was appropriate.

[h] i. Fees. The department is authorized to establish by rule reasonable fees from applicants for the administrative expenses incurred by the department for issuing the certification of no harassment pursuant to this section, including costs for publication and notices.

[i] j. Waiver. The commissioner may grant a waiver of certification of no harassment although the commissioner determines that harassment has occurred at the [pilot] program building for which such certification is sought during the 60 month period prior to the date of the submission of an application for a certification of no harassment if the commissioner finds that:

[(1)(A)(i) the] (1)(i)(A) The owner of record of the [pilot] program building was the owner of record prior to November 29, 2017; or [(ii)] (B) with respect to buildings added to the [pilot] program list on or after October 31, 2021, where eligibility for inclusion on the [pilot] program list resulted from the amendment of paragraph (1) or the addition of paragraph (4) of subdivision b of this section made by [the] local law [that amended this subparagraph] number 140 for the year 2021, such owner of record was the owner of record prior to the date of enactment of such local law; or [(iii)] (C) with respect to buildings added to the program list on or after the effective date of the local law that added subparagraph (ii) of paragraph (3) of subdivision b of this section, where eligibility for inclusion on the program list resulted from the addition of such subparagraph, such owner of record was the owner of record prior to the date of enactment of such local law; or (D) such owner of record had entered into a contract of sale for the purchase of such [pilot] program building, which was recorded prior to such relevant date; or [(iv)] (E) with respect to a certification proceeding where the alterations sought to be performed are of the type prescribed by rule of the commissioner pursuant to item 5 of section 28-505.3, the owner of record of such multiple dwelling was the owner of record of such multiple dwelling prior to the date of the first publication of such rule or had entered into a contract of sale for the purchase of such multiple dwelling which was recorded prior to such date;

[(B) such] (ii) Such owner was not the owner of such multiple dwelling during any period of time in

which such harassment occurred and did not at such [pilot] program building [(i)] (A) otherwise engage or participate in such harassment; or [(ii)] (B) with intent that harassment be performed, agree with [one] 1 or more persons to engage in or cause the performance of harassment; or [(iii)] (C) with intent that another person engage in conduct constituting harassment, solicit, request, command, importune or otherwise attempt to cause such person to engage in conduct constituting harassment; and

[(C) such] (iii) Such owner acquired title pursuant to a bona fide transaction that is not intended to evade the provisions of this section; or

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

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

[(B)(i) such] (ii)(A) Such mortgage was recorded prior to November 29, 2017; or [(ii)] (B) with respect to buildings added to the [pilot] program list on or after October 31, 2021, where eligibility for inclusion on the [pilot] program list was a result of the amendment of paragraph (1) or the addition of paragraph (4) of subdivision b of this section by [the] local law [that amended this subparagraph] number 140 for the year 2021, such mortgage was recorded prior to the date of enactment of such local law; or [(iii)] (C) with respect to buildings added to the program list on or after the effective date of the local law that added subparagraph (ii) of paragraph (3) of subdivision b of this section, where eligibility for inclusion on the program list resulted from the addition of such subparagraph, such mortgage was recorded prior to the date of enactment of such local law; or (D) if such owner is a banking organization as defined in section 2 of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks

life insurance fund, the savings banks retirement system, an authorized insurer as defined in section [4] 107 of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least 20 savings banks or by at least 20 savings and loan associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, a commitment for such mortgage was made prior to such relevant date.

(3) In determining whether a transaction described in this subdivision was bona fide, the commissioner may consider whether at such [pilot] project building or any other multiple dwelling such owner did (i) otherwise engage or participate in harassment; or (ii) with intent that harassment be performed, agree with [one] 1 or more persons to engage in or cause the performance of harassment; or (iii) with intent that another person engage in conduct constituting harassment, solicit, request, command, importune or otherwise attempt to cause such person to engage in conduct constituting harassment. The commissioner may also consider the relationship between the parties to the transaction.

(4) A waiver of a certification pursuant to this subdivision shall state the findings of the commissioner.

k. Reporting. By April 15, 2031, and by April 15 every 3 years thereafter, the commissioner shall submit to the mayor and the speaker of the council, and post on the department's website, a report regarding the certification of no harassment program. Such report shall include the following information:

(1) The buildings on the program list, identified by borough, street address, block and lot, community district, council district, census tract, neighborhood tabulation area, postal code, the criteria by which such building qualified for such program list, the date such building was added to such program list, and whether such building is receiving a subsidy or other property tax benefit from the city;

(2) The buildings on the program list that entered into a cure agreement;

(3) The buildings removed from the program list;

(4) The buildings granted a certification of no harassment during the prior 36 month period, and the identifying information required by paragraph (1) of this subdivision;

(5) The buildings denied a certification of no harassment or buildings where a certification of no harassment has been rescinded, during the prior 36 months;

(6) An analysis evaluating the efficacy of the program regarding building owner outcomes, per the application of appropriate metrics to participating building owners;

(7) An analysis evaluating how the program improved conditions for tenants; and

(8) Recommendations, if any, for any adjustment to the program based on the effectiveness of existing program criteria.

§ 2. The heading of article 505 of chapter 5 of title 28 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, is amended to read as follows:

ARTICLE 505
CERTIFICATION OF NO HARASSMENT [PILOT] PROGRAM

§ 3. Section 28-505.1 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, is amended to read as follows:

§ 28-505.1 General. The commissioner shall not approve construction documents, nor issue an initial or reinstated permit in connection therewith, for the alteration or demolition of a [pilot] program building identified by the department of housing preservation and development pursuant to section 27-2093.1 except as set forth in this article. Applications for post approval amendments to construction documents are subject to this article where the application proposes a change within a covered category of work as set forth in section 28-505.3.

§ 4. The definition of "pilot program building" in section 28-505.2 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, is amended to read as follows:

[PILOT] PROGRAM BUILDING. The term "[pilot] program building" has the same meaning as in section 27-2093.1 of the housing maintenance code.

§ 5. Section 28-505.3 of the administrative code of the city of New York, as amended by local law number 77 for the year 2023, is amended to read as follows:

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

1. Demolition of all or part of the [pilot] program building, other than interior demolition being conducted

in the course of renovation of occupied units for the purpose of repair to such units where the commissioner determines that issuance of such permit is necessary to perform work to protect public health and safety;

2. Change of use or occupancy of all or part of a dwelling unit, any residential portion of the [pilot] program building, or any part of such building serving such dwelling units;

3. Any alteration resulting in the addition or removal of kitchen or bathrooms, an increase or decrease in the number of dwelling units, or any change to the layout, configuration, or location of any portion of any dwelling unit;

4. An application for a new or amended certificate of occupancy; or

5. Such other types of alteration work to a [pilot] program building as shall be prescribed by rule of the commissioner of housing preservation and development.

Exceptions:

1. Work solely for the purpose of either (i) making the public areas of a [pilot] program building accessible to persons with disabilities without altering the configuration of any dwelling unit or rooming unit or (ii) making the interior or the entrance to a dwelling unit or a rooming unit accessible to persons with disabilities shall not be covered by this article.

2. Repairs, demolition or any other work performed by a city agency or by a contractor pursuant to a contract with a city agency shall not be covered by this article.

3. Repairs, replacement, modification, or partial demolition work in a building that is the minimum required to be performed to address conditions for rescission of a vacate order issued by the department of housing preservation and development or the department.

4. Work performed on a building that has an administrator currently appointed pursuant to article seven-a of the real property actions and proceedings law shall not be covered by this article.

5. Cosmetic work, including but not limited to painting and cleaning, and the repair or replacement of broken or faulty hardware fixtures and appliances, including but not limited to doors, doorknobs, faucets, and toilets that does not require a permit from the department.

6. Other categories of work that are excluded from the definition of covered categories of work by rule of the department of housing preservation and development shall not be covered by this article.

§ 6. Section 28-505.4 of the administrative code of the city of New York, as added by local law number 1 for the year 2018, is amended to read as follows:

§ 28-505.4 Required submittal documents. The commissioner shall not approve any construction documents, nor issue an initial or reinstated permit in connection therewith, for a [pilot] program building for the covered categories of work unless the applicant provides:

1. A sworn affidavit by or on behalf of all the owners of such building that has been provided to the

department of housing preservation and development, which states that there will be no harassment of the lawful occupants of such building by or on behalf of such owners during the construction period;

2. A tenant protection plan as provided for in this code; and

3. The following documents from the commissioner of housing preservation and development:

3.1. A current certification of no harassment that there has been no harassment of the lawful occupants of such [pilot] program building within the 60 month period prior to submission of an application for such certification to the department of housing preservation and development, provided, however, that such certification of no harassment shall except any portion of such 60 month period during which title was vested in the city;

3.2. A waiver of such certification; or

3.3. A certification that a restrictive declaration, in accordance with subdivision e of section 27-2093.1 of the housing maintenance code, has been recorded in the office of the city register or the Richmond county clerk and indexed as provided by the department of housing preservation and development.

§ 7. Section 5 of local law number 1 for the year 2018, as amended by local law number 140 for the year 2021, is amended to read as follows:

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

§ 8. This local law takes effect immediately, except that (i) sections one through six of this local law take effect on April 15, 2027 and (ii) the pilot program list published in accordance with section 27-2093.1 of

the administrative code of the city of New York as in effect prior to the effective date of the amendments of such section pursuant to sections one through six of this local law shall remain in effect until the publication of a program list in accordance with section 27-2093.1 of the administrative code of the city of New York as amended by sections one through six of this local law.

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