

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2011**

No. 16

By The Public Advocate (Mr. de Blasio) and Council Members Brewer, Chin, Lander, Mealy, Foster, Vann, Rodriguez, Garodnick, Williams, Weprin, Mendez, Levin, Mark-Viverito, Lappin, Sanders Jr., Rose, Palma, James, Van Bramer, Ferreras, Dromm, Jackson, Cabrera, Gonzalez, Arroyo, Gentile, Reyna, Barron, Vacca, Koslowitz, Koppell, Wills, Gennaro and Koo

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to penalties for violating the housing maintenance code by failing to provide adequate heat and hot water.

Be it enacted by the Council as follows:

Section 1. Paragraph one of subdivision k of section 27-2115 of the administrative code of the city of New York, is amended to read as follows:

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

two of] this chapter shall be subject to a civil penalty of twenty-five dollars per day from and including the date the notice is affixed pursuant to paragraph two *of this subdivision* until the date the violation is corrected but [no] *not* less than one thousand dollars. There shall be a presumption that the condition constituting a violation continues after the affixing of the notice.

§2. Paragraph three of subdivision k of section 27-2115 of the administrative code of the city of New York is amended to read as follows:

(3) Notwithstanding any other provision of law, the owner shall be responsible for the correction of all violations placed pursuant to article eight of subchapter two of this code, but in an action for civil penalties pursuant to this article may in defense or mitigation of such owner's liability for civil penalties show:

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

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

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

(iv) That the violation giving rise to the action was caused by the act or negligence, neglect or abuse of another not in the employ or subject to the direction of the owner[.]; or

(v) *That in addition to any other defense or mitigation set forth in subparagraphs (i) through (iv) of this paragraph, with respect to an owner who may be subject to the penalty of not*

less than five hundred nor more than one thousand dollars per day with respect to a subsequent violation pursuant to paragraph one of this subdivision, documentation of prompt and diligent efforts to correct the conditions that gave rise to an initial violation and that such conditions were corrected. Where demonstrated, such subsequent violation shall be treated as though it was an initial violation. However, this defense or mitigation may not be asserted or demonstrated where the initial and subsequent violations occurred in the same calendar year or, in the case of violations of subdivision a of section 27-2029, during the same period of October first through May thirty-first.

§3. This local law shall take effect on October 1, 2011, except that the commissioner of housing preservation and development shall take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council onMarch 2, 2011..... and approved by the Mayor onMarch 16, 2011.....

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

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 16 of 2011, Council Int. No. 291A) contains the correct text and was passed by the New York City Council on March 2, 2011, approved by the Mayor on March 16, 2011 and returned to the City Clerk on March 16, 2011.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.