

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2018**

No. 61

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

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to mold assessment, mold abatement and mold remediation for certain buildings

Be it enacted by the Council as follows:

Section 1. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-154 to read as follows:

§ 24-154 Mold abatement and remediation work for certain buildings. a. As used in this section, the terms “mold abatement,” “mold assessment” and “mold remediation” shall have the meanings ascribed to such terms in section 930 of the labor law; the term “dwelling unit” shall have the meaning ascribed to such term in the housing maintenance code; the terms “floor area” and “zoning lot” shall have the meaning ascribed to such terms in the New York city zoning resolution and:

Administering agency. The term “administering agency” means the agency or agencies designated by the mayor pursuant to subdivision f to administer and enforce the provisions of this section.

Covered building. The term “covered building” means a building that (i) contains ten or more dwelling units or (ii) is located on a zoning lot that contains 25,000 or more square feet of non-residential floor area.

Covered person. The term “covered person” means, with respect to a building, a person who is an owner of such building, a managing agent of such building or an employee of such owner or agent.

Project. The term “project” means mold remediation, mold assessment or mold abatement, of areas greater than ten square feet, but does not include full demolition of vacant buildings.

Non-residential floor area. The term “non-residential floor area” means, for a zoning lot, the amount of commercial floor area, office floor area, retail floor area, storage floor area and factory floor area, according to records of the department of finance and department of city planning.

b. For a covered building:

1. No covered person for such building may perform mold assessment, abatement or remediation for a project for such building.

2. Mold assessment, abatement or remediation for a project for such building shall be performed (i) by a person licensed to perform such work pursuant to article 32 of the labor law and (ii) in compliance with the requirements set forth in such article and any other applicable laws or rules.

c. 1. Except as provided in paragraph 3, no later than two business days before the commencement of mold remediation for a project for a covered building, the person holding a mold remediation license pursuant to article 32 of the labor law who performs such remediation

shall provide the administering agency with a notice, in a form and manner established by such agency, containing the following information:

(a) The name of such person and the number or other designation identifying such person's license issued under such article;

(b) The address of such building;

(c) The name of the person on whose behalf such work was performed;

(d) The dates that such work is to be performed;

(e) A copy of the mold remediation work plan prepared in accordance with section 946 of the labor law for such project;

(f) A certification that such work was performed and such plan was prepared in compliance with article 32 of the labor law; and

(g) Such other information as such agency may require by rule.

2. No later than seven days after completion of a post-remediation assessment pursuant to section 947 of the labor law, the person holding a mold assessment license pursuant to article 32 of the labor law who prepares such post-remediation assessment shall provide the administering agency with a notice, in a form and manner established by such agency, containing the following information:

(a) The name of such person and the number or other designation identifying such person's license issued under such article;

(b) The address of such building;

(c) The name of the person on whose behalf such post-remediation assessment was performed;

(d) The dates that such post-remediation assessment was performed;

(e) A copy of such post-remediation assessment;

(f) A certification that such post-remediation assessment was performed in compliance with article 32 of the labor law; and

(g) Such other information as such agency may require by rule.

3. Notwithstanding the requirements of paragraphs 1 and 2, the notices required by such paragraphs for a project may be provided to the administering agency no later than 24 hours after commencement of mold remediation in connection with such project if:

(a) Such project is subject to an order issued by a court that requires such project to be completed within 30 or fewer days; or

(b) The condition that such project is intended to correct poses either an immediate risk of harm to any person or damage to property, or both, pursuant to rules established by the administering agency in conjunction with the department of health and mental hygiene, the department of buildings and the department of housing preservation and development.

4. No later than 24 hours after receiving information provided pursuant to this subdivision, the administering agency shall make such information publicly available online.

d. Violations. 1. Civil penalties under this section may be recovered by the administering agency in an action in any court of appropriate jurisdiction or in a proceeding before the office of administrative trials and hearings acting pursuant to section 1049-a of the New York city charter.

2. If such court or office finds that a person has violated any provision of this section or rule promulgated thereunder, such court or office shall, in addition to any other relief such court or office determines to be appropriate, impose a civil penalty of up to \$1,000 for a first violation, up

to \$5,000 for a second violation and up to \$10,000 for a third or subsequent violation.

3. Notwithstanding paragraph 2, if such court or office finds that an owner of a covered building has violated any provision of this section or rule promulgated thereunder, such court or office shall, in addition to any other relief such court or office determines to be appropriate, impose a civil penalty of (i) for a first violation relating to such building, up to the greater of \$1,000 or 20 cents per square foot of gross floor area in such building, (ii) for a second violation, up to the greater of \$5,000 or 30 cents per square foot of gross floor area in such building and (iii) for a third or subsequent violation, up to the greater of \$10,000 or 40 cents per square foot of gross floor area in such building.

e. The requirements of this section shall not apply to buildings owned or operated by the New York city housing authority.

f. The mayor shall, in writing, designate one or more agencies to administer and enforce the provisions of this section and may, from time to time at the mayor's discretion, change such designation. Within 10 days after such designation or change thereof, a copy of such designation or change thereof shall be published on the city's website and on the website of each such agency, and shall be electronically submitted to the speaker of the council.

§ 2. This local law takes effect January 1, 2019, except that, before such effective date, (i) the mayor may designate administering agencies in accordance with subdivision f of section 24-154, as added by this local law, and (ii) the head of such designated agencies may take such actions as are necessary for implementation of this local law, including the promulgation of rules.

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

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 19, 2017 and returned unsigned by the Mayor on January 22, 2018.

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

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 61 of 2018, Council Int. No. 978-D of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.