

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2019**

No. 118

Introduced by Council Members Rosenthal, Levine, Ampry-Samuel, Lancman, Ayala, Kallos, Perkins and Rivera.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the tenant protection plan and penalties for false statements relating to tenant occupancy on certain construction documents

Be it enacted by the Council as follows:

Section 1. Section 28-120.1 of the administrative code of the city of New York, as added by a local law amending the administrative code of the city of New York, relating to submittal of construction documents, applicant and owner statements, and tenant protection plans, as proposed in introduction number 1107-A, and as amended by a local law amending the administrative code of the city of New York, relating to requiring heightened review of tenant protection plans and increased enforcement of building code standards as proposed in introduction number 1278-A, is amended to read as follows:

§ 28-120.1 Tenant protection plan. A tenant protection plan shall be prepared and submitted for the alteration, construction, or partial demolition of buildings in which any dwelling unit will be occupied during construction, including newly constructed buildings that are partially occupied where work is ongoing. The tenant protection plan shall be prepared by a registered design professional and filed with the department. The registered design professional preparing the tenant protection plan shall be retained by the general contractor performing the alteration, construction, or partial demolition work. No permit shall be issued for work that requires a tenant protection plan unless such plan is approved by the department. Such plan shall contain a statement *signed by the owner and signed by the applicant affirming* that the building contains dwelling units that will be occupied during construction and shall [indicate] *identify* in sufficient detail the specific units that are or may be occupied during construction, the means and methods to be employed to

safeguard the safety and health of the occupants throughout the construction, including, where applicable, details such as temporary fire-rated assemblies, opening protectives, or dust containment procedures. Such means and methods shall be described with particularity and in no case shall terms such as “code compliant,” “approved,” “legal,” “protected in accordance with law” or similar terms be used as a substitute for such description. The tenant protection plan must be site specific. The elements of the tenant protection plan may vary depending on the nature and scope of the work but at a minimum, must comply with all applicable laws and regulations, including the New York city construction codes, the New York city housing maintenance code, the New York city noise control code and the New York city health code, and shall make detailed and specific provisions for:

1. Egress. At all times in the course of construction provision shall be made for adequate egress as required by this code and the tenant protection plan shall identify the egress that will be provided. Required egress shall not be obstructed at any time except where approved by the commissioner.

2. Fire safety. All necessary laws and controls, including those with respect to occupied dwellings, as well as additional safety measures necessitated by the construction shall be strictly observed.

3. Health requirements. Specification of means and methods to be used for control of dust, disposal of construction debris, pest control and maintenance of sanitary facilities shall be included.

3.1. There shall be included a statement of compliance with applicable provisions of law relating to lead and asbestos, and such statement shall describe with particularity what means and methods are being undertaken to meet such compliance..

4. Compliance with housing standards. The requirements of the New York city housing maintenance code, and, where applicable, the New York state multiple dwelling law shall be strictly observed.

5. Structural safety. No structural work shall be done that may endanger the occupants.

6. Noise restrictions. Specification of means and methods to be used for the limitation of noise to acceptable levels in accordance with the New York city noise control code shall be included. Where hours of the day or the days of the week in which construction work may be undertaken are limited pursuant to the New York city noise control code, such limitations shall be stated.

7. Maintaining essential services. Where heat, hot water, cold water, gas, electricity, or other utility services are provided in such building or in any dwelling unit located therein, the tenant protection plan shall specify the means and methods to be used for maintaining such services during such work in accordance with the requirements of the New York city housing maintenance code. If a disruption of any such service is anticipated during the work, then such plan shall specify the anticipated duration of such disruption and the means and methods to be

employed to minimize such disruption, including the provision of sufficient alternatives for such service during such disruption. Notification of the disruption must be given to all affected occupants of occupied dwelling units.

Exception: In the following instances, the tenant protection plan may be prepared and filed by the registered design professional of record for the alteration, construction, or partial demolition work as part of the underlying application:

1. Work in occupied one- and two-family homes.
2. Work limited to the interior of a single dwelling unit of an occupied multiple dwelling with no disruption to the essential services of other units, where such dwelling is owner-occupied. For a dwelling unit within a property that is owned by a condominium or held by a shareholder of a cooperative corporation under a proprietary lease, the unit must be occupied by the owners of record for such unit.

§ 2. Section 28-202.1 of the administrative code of the city of New York, as amended by local law number 70 for the year 2018, is amended by adding a new exception 11 to read as follows:

11. For (i) a violation of section 28-211.1 or (ii) where a tenant protection plan is required pursuant to section 28-120.1, but has not been submitted to the department, the minimum civil penalty for a first offense shall be no less than \$10,000 and, for each subsequent offense, no less than \$25,000.

§ 3. Section 28-203.1 of the administrative code of the city of New York, as amended by local law number 203 for the year 2017, is amended by adding a new exception 6 to read as follows:

6. For (i) a violation of section 28-211.1 or (ii) where a tenant protection plan is required pursuant to section 28-120.1, but has not been submitted to the department, the minimum fine shall be no less than \$10,000 and, for each subsequent offense, no less than \$25,000.

§ 4. This local law takes effect on the same date as a local law amending the administrative code of the city of New York, relating to submittal of construction documents, applicant and owner statements, and tenant protection plans, as proposed in introduction number 1107-A for the year 2018, takes effect, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before 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 on May 8, 2019 and returned unsigned by the Mayor on June 11, 2019.

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. 118 of 2019, Council Int. No. 1280-A of 2018) 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.