

Proposed Int. No. 34-A

By Council Members Reyna, Addabbo Jr., Comrie, Fidler, Martinez, Nelson, Recchia Jr., Sanders Jr., Stewart, Vann, White Jr., Yassky, Mendez, Jackson, Dickens, DeBlasio, Gentile, Liu, Sears, Vallone Jr., Weprin, Gallagher and Oddo

A Local Law to amend the administrative code of the city of New York, in relation to illegal conversions of manufacturing or industrial space to residential use.

Be it enacted by the Council as follows:

Section 1. Statement of legislative findings and intent. The alteration or modification of existing buildings designated for industrial or manufacturing uses to create illegal housing units is increasingly occurring throughout the City. Such modifications sometimes occur due to ignorance of the law but are often blatant efforts to thwart the law. The illegal conversion of buildings designated for industrial or manufacturing uses for the purpose of residential occupancy reduces the availability of valuable space from the City's remaining inventory of buildings designated for industrial or manufacturing uses. These illegal conversions result in increased costs for the leasing of space for industrial or manufacturing uses and increases the risk of further displacement of jobs in this sector, a crucial component of the City's economy. This legislation will empower our code enforcement officials and allow the issuance of multiple violations by assessing a penalty per residential unit in illegally converted buildings and increasing the penalties for violations.

§2. Subdivision a of section 26-126.1 of the administrative code of the city of New York, as amended by local law number 65 for the year 1997, is amended, and a new subdivision f is added, to read as follows:

a. In addition to or as an alternative to any of the remedies and penalties provided in subchapters one, two and three of chapter one of this title or chapter one of title twenty-seven any person who shall violate or fail to comply with any of the provisions of subchapters one, two and three of chapter one of this title or chapter one of title twenty-seven or the rules and regulations promulgated hereunder shall, except as otherwise specifically provided in subdivision c of section 26-126.2, be liable for a civil penalty which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before the board. The provisions of sections 26-244, 26-246 and 26-248 relating to notification prior to the commencement of judicial proceedings shall not apply to the recovery of civil penalties in proceedings before the environmental control board. Except as otherwise specifically provided, such civil penalty shall be determined in accordance with the following schedule:

First Violation	Second or Violation by the respondent of the same provision of law, rule or regulation and, if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violations occurred, at the same premises (all violations committed within an eighteen month period).	Subsequent
Minimum Maximum (Dollars) (Dollars)	Maximum (Dollars)	Minimum (Dollars)

27-118.1(a).....	250	2,500	1,000
10,000			
27-118.1(b).....	2,500	5,000	5000
<u>25,000</u>			
27-508.3(b).....	0	300	350
1,000			
Any Provision of subchapter 19 of Chapter 1 of title 27.....	0	5,000	0
10,000			
Any provisions of subchapters 1,2, and 3 10,000 of chapter 1 of this title and all other provisions of chapter 1 of title 27 or any provisions of the zoning resolution and related rules and regulations.....	0	2,500	0

(Reference to a section of the code is intended to include any rules and regulations related to such section).

f. In addition to the penalties set forth in subdivision a of this section any person who shall violate or fail to comply with the provisions of subdivision b of section 27-118.1 of this code shall also be subject to the payment of a penalty of not less than two hundred fifty dollars nor more than five hundred dollars per day, for each dwelling unit added, commencing on the date such notice of violation was issued and terminating on the date of the filing of a certification that the condition constituting the violation has been corrected or the date of final adjudication of the violation by the environmental control board, whichever occurs first, and there shall be a rebuttable presumption that the violation continued to exist from the date of the issuance of the notice of violation until the date of the filing of the certification or final adjudication.

§3. Section 26-126 of the administrative code of the city of New York is hereby amended by adding thereto a new subdivision e to read as follows:

e. Notwithstanding any other law, rule or regulation, and in addition to any other penalties provided by law, any person who shall convert, or knowingly take part or assist

in the conversion or permit the maintenance of the conversion of a building legally approved for industrial or manufacturing use, except as provided by section 42-03 of the zoning resolution and the multiple dwelling law, to occupancy as a dwelling shall be subject to imprisonment for a period not to exceed one year and by a fine for each dwelling unit added of not less than one thousand dollars nor more than five thousand dollars for the first offense, not less than two thousand five hundred dollars nor more than fifteen thousand dollars for a second offense committed within an eighteen-month period of the first offense and not less than ten thousand dollars nor more than twenty thousand dollars for a third or subsequent offense committed within an eighteen-month period of the first offense.

§4. Section 27-118.1 of the administrative code of the city of New York, as added by local law number 65 for the year 1997, is amended to read as follows:

§27-118.1 Illegal alterations involving change in occupancy. a. No person, except in accordance with all requirements of this code, shall convert, knowingly take part or assist in the conversion, or permit the maintenance of the conversion, of a residence which is legally approved for occupancy as a dwelling for one or more families, to a residence for occupancy as a dwelling for more than the legally approved number of families. Any person who shall violate or fail to comply with the provisions of this [section] subdivision shall be liable for a civil penalty which may be recovered in a proceeding before the environmental control board pursuant to the provisions of section 26-126.1 of this code. Upon the finding of such violation and the imposition of the civil penalty, the Environmental Control Board shall forward to the Internal Revenue Service, the New York State Department of Taxation and Finance and the New York City

Department of Finance the name and address of the respondent, the address of the building or structure with respect to which the violation occurred, and the time period during which the violation was found to have existed.

b. Except as otherwise provided by section 42-03 of the zoning resolution and the multiple dwelling law, no person, except in accordance with all requirements of this code, shall convert for residential use or dwelling, knowingly take part or assist in such conversion, or permit the maintenance of such conversion, of any space in a building or other structure part or all of which is legally approved for occupancy for the purpose of industrial or manufacturing use. Any person who shall violate or fail to comply with the provisions of this subdivision shall be liable for a civil penalty which may be recovered in a proceeding before the environmental control board pursuant to the provisions of section 26-126.1 of this code. Upon the finding of such violation and the imposition of the civil penalty, the environmental control board shall forward to the internal revenue service, the New York state department of taxation and finance and the New York city department of finance the name and address of the respondent, the address of the building or structure with respect to which the violation occurred, and the time period during which the violation was found to have existed.

§5. Item 1 of section 28-201.2.2 of the administrative code of the city of New York, as added by a local law of the city of New York for the year 2007 amending the New York city charter and the administrative code of the city of New York relating to the enactment of the New York city construction codes as proposed in Int. No. 587 A, is amended to read as follows:

1. A violation of section 28-210.1 or 28-210.2 other than a violation that is directed to be classified as immediately hazardous.

§6. The administrative code of the city of New York is amended by adding a new section 28-210.2 to read as follows:

§28-210.2 Illegal industrial or manufacturing conversions. Except as otherwise provided by section 42-03 of the zoning resolution and the multiple dwelling law, it shall be unlawful, except in accordance with all requirements of this code, to convert to residential use any space legally authorized for occupancy for industrial or manufacturing use or to assist, take part in, maintain or permit the maintenance of such conversion. Upon the finding of such violation and the imposition of punishment for such violation as set forth in this code the department, or, if applicable, the environmental control board shall forward to the internal revenue service, the New York state department of taxation and finance and the New York city department of finance the name and address of the respondent or defendant, the address of the building or structure with respect to which the violation occurred and the time period during which the violation was found to have existed.

§7. Sections 1, 2, 3 and 4 of this local law shall take effect ninety days after they shall have been enacted into law except that the amendment of sections 26-126, 26-126.1 and 27-118.1 of the administrative code pursuant to sections 2, 3 and 4 of this local law shall not affect the repeal of such sections 26-126, 26-126.1 and 27-118.1 pursuant to sections 2 and 7 of a local law of the city of New York for the year 2007 amending the New York city charter and the administrative code of the city of New York relating to the

enactment of the New York city construction codes as proposed in Int. No. 587-A.

Sections 5 and 6 of this local law shall take effect on July 1, 2008.

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