

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2017**

No. 78

Introduced by Council Members Kallos, Rosenthal, Levine, Torres, Crowley, Miller, Salamanca, Barron, Gentile, Rose, Reynoso, Levin, Espinal, Menchaca, Cornegy, Richards, Chin, Cohen, Dromm, Williams and Vallone.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring the department of buildings to report on all construction incidents that result in an injury or fatality to a member of the public or a construction worker

Be it enacted by the Council as follows:

Section 1. Section 28-103.21 of article 103 of chapter 1 of title 28 of the administrative code of the city of New York is amended to read as follows:

§ 28-103.21 Incident lists. The commissioner shall, *by January 2018 and monthly thereafter*, post on the department's website, *in a machine-readable format*, a list of every incident, *reported to the department in accordance with section 28-103.21.1*, that occurred on every construction site [within the city of New York that resulted in an injury and/or a fatality, either or both of which were reported to the department or of which the department otherwise became aware. Such list shall be updated monthly.] *where construction work subject to permitting by the commissioner resulted in (i) a fatality to any individual, including a member of the general public or a construction worker, or (ii) an injury to any individual, including a member of the general public or a construction worker, that requires transport by emergency medical services or requires immediate emergency care at a hospital or offsite medical clinic, regardless of whether such incident involved a violation of this code or any other law or rule. Such list shall [identify the] identify, at a minimum, the following information for each incident that the department is required to report on pursuant to this section:*

1. *The owner [and the general contractor] of the site where the incident [occurred, the] occurred;*
2. *If the incident involved a construction worker, the name of the general contractor or the subcontractor who employed such worker at the time of the incident;*

3. *A detailed description of the incident, including the nature of the work being performed at the time of the [incident, violations] incident;*
4. *Violations issued by the department as a result of the incident and to whom such violations were [issued, and the] issued;*
5. *The number of persons injured and/or [killed. Such list shall also set forth the total number of injuries and fatalities reported to the department or of which the department otherwise became aware that occurred on construction sites within each borough and within the entire city for each of the previous five calendar years.] killed in the incident, and whether such persons were members of the public, construction workers or other persons;*
6. *If the incident involved an injury, a description of the type of injury;*
7. *Whether the incident involved a fatality;*
8. *The date and time of the incident;*
9. *The address where the incident occurred;*
10. *The total square footage of the site where the incident occurred;*
11. *The number of floors and height of the building involved where the incident occurred or, in the case of a new building, the proposed number of floors and proposed height;*
12. *A list of active permits issued by the department associated with the construction site where an incident occurred, disaggregated by type;*
13. *If the incident involved a construction worker, the length of time the injured or deceased worker had been employed by their employer at the time of the incident;*
14. *If the incident involved a construction worker, the number of hours the injured or deceased worker had been working when the incident occurred;*
15. *If the incident involved a construction worker, whether or not the injured or deceased worker was a union member; and*
16. *Whether or not the construction site where the incident occurred was a union site.*

§ 28-103.21.1 Reporting. *Where construction work subject to permitting by the commissioner that results in a fatality or injury to any individual, including a member of the general public or a construction worker, occurs on a construction site within the city, the owner or person otherwise in control of the site at which such incident occurred, or, if the incident involved a construction worker, the general contractor or subcontractor that employed such worker, shall report to the*

department, within three business days after the occurrence of such incident, the information required by section 28-103.21.

§ 2. Item 13 of section 28-201.2.1 of the administrative code of the city of New York, as amended by local law number 17 for the year 2010, is amended to read as follows:

13. A violation of any provision of chapter 4 of this title for engaging in any business or occupation without a required license or other authorization.

[13.1. The minimum civil penalty that shall be imposed for a violation of section 28-408.1 or section 28-410.1 of this code and the minimum fine that shall be imposed for a violation of such sections shall be two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.]

§ 3. Section 28-202.1 of the administrative code of the city of New York, as amended by local law number 59 for the year 2016, is amended to read as follows:

§ 28-202.1 Civil penalties. Except as otherwise specified in this code or other law, violations of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department shall be punishable by civil penalties within the ranges set forth below:

1. For immediately hazardous violations, a civil penalty of not less than one thousand dollars nor more than [twenty-five thousand dollars] *\$25,000* may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than [one thousand dollars] *\$1,000* for each day that the violation is not corrected. The commissioner may by rule establish such specified daily penalties.
2. For major violations, a civil penalty of not more than [ten thousand dollars] *\$10,000* may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than [two hundred fifty dollars] *\$250* for each month that the violation is not corrected. The commissioner may by rule establish such specified monthly penalties.
3. For lesser violations, a civil penalty of not more than [five hundred dollars] *\$500* may be imposed for each violation.

Exceptions:

1. The owner, lessee, occupant, manager or operator of a building affected by a natural or man-made disaster, as determined by the commissioner, shall not be subject to a civil penalty for a violation involving such building if (i) notice of such violation is issued by the department during the 90-day period immediately after such disaster or, in the

case of a major natural or man-made disaster as determined by the commissioner, during the six-month period immediately after such disaster, and (ii) such violation is corrected on or before 40 days after such disaster period or such greater amount of time as determined by the commissioner for such violation. The notice of such violation shall state that such violation is subject to this exception and shall set forth the procedure and time period for correcting such violation without incurring a civil penalty. This exception shall not apply to immediately hazardous violations, violations charged as aggravated violations or violations without connection to such disaster, as determined by the department.

2. The owner, lessee, occupant, manager or operator of a building where a violation occurs shall not be subject to a civil penalty for such violation if (i) such violation was connected to a natural or man-made disaster, as determined by the commissioner, and (ii) such building is undergoing, or scheduled or under evaluation for, work or acquisition through a city-operated disaster recovery program responding to such disaster.
3. The owner, lessee, occupant, manager or operator of a building shall not be subject to a civil penalty for a violation resulting from work done by a city employee, or by a third party under contract with the city, in response to a natural or man-made disaster, provided that such violation is corrected on or before 60 days after the issuance of such violation, or such greater amount of time as determined by the commissioner for such violation. If such owner, lessee, occupant, manager or operator of a building can demonstrate to the satisfaction of the department that a city employee or third party under contract with the city has committed to correcting such violation then such violation shall be rescinded, without penalty. The notice of such violation shall state that such violation is subject to this exception and shall set forth the procedure and time period for correcting such violation without incurring a civil penalty. This exception shall not apply to immediately hazardous violations or violations charged as aggravated violations.
4. *The minimum civil penalty for a violation of section 28-408.1 or section 28-410.1 of this code shall be \$2,500 for a first violation and \$5,000 for a second violation, in addition to any separate daily penalty imposed pursuant to item 1 of this section.*
5. *The minimum civil penalty for a violation of section 28-103.21.1 of this code shall be \$2,500, in addition to any separate daily or monthly penalty imposed pursuant to item 1 or 2 of this section.*

§ 4. This local law shall take effect immediately.

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 April 25, 2017 and approved by the Mayor on May 10, 2017.

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. 78 of 2017, Council Int. No. 1433-A of 2017) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.