

CHAPTER 2
HOUSING MAINTENANCE CODE

SUBCHAPTER 1
GENERAL PROVISIONS

ARTICLE 1
GENERAL PROVISIONS

§27–2001 **Short title.** This chapter shall be known and may be cited as the "housing maintenance code."

§27–2002 **Legislative declaration.** It is hereby found that the enforcement of minimum standards of health and safety, fire protection, light and ventilation, cleanliness, repair and maintenance, and occupancy in dwellings is necessary to protect the people of the city against the consequences of urban blight. The sound enforcement of minimum housing standards is essential:

1. to preserve decent housing;
2. to prevent adequate or salvageable housing from deteriorating to the point where it can no longer be reclaimed; and
3. to bring about the basic decencies and minimal standards of healthful living in already deteriorated dwellings, which, although no longer salvageable, must serve as habitations until they can be replaced.

In order to accomplish these purposes, and following a review of existing housing standards in the light of present needs, and a reexamination of methods of administration, including legal sanctions and remedies, to assure the effectiveness of enforcement, it is hereby found that the enactment of a comprehensive code of standards for decent housing maintenance, imposing duties and responsibilities for the preservation of the dwellings in the city upon owners and tenants, as well as on the municipality itself, enforceable by a broad range of legal, equitable and administrative powers, is appropriate for the protection of the health, safety and welfare of the people of the city.

§27–2003 **Applicability.** The provisions of this chapter, except as otherwise provided, apply to all dwellings.

§27–2004 **Definitions.**

a. The following terms, as used in this chapter, shall have the following meanings:

1. The term department shall mean the department, bureau, division or other agency charged with the enforcement of this title.
2. Wherever the word or words occupied, is occupied, used, or is used appear, such word or words shall be construed as if followed by the words "or is intended, arranged or designed to be used or occupied".
3. A dwelling is any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.
4. A family is:
 - (a) A single person occupying a dwelling unit and maintaining a common household with not more than two boarders, roomers or lodgers; or
 - (b) Two or more persons related by blood, adoption, legal guardianship, marriage or domestic partnership; occupying a dwelling unit and maintaining a common household with not more than two boarders, roomers or lodgers; or

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- (c) Not more than three unrelated persons occupying a dwelling unit and maintaining a common household; or
- (d) Not more than three unrelated persons occupying a dwelling unit in a congregate housing or shared living arrangement and maintaining a common household; or
- (e) Members of a group home; or
- (f) Foster children placed in accordance with provisions of the New York state social services law, their foster parents, and other persons related to the foster parents by blood, marriage or domestic partnership; where all residents occupy and maintain a common household with not more than two boarders, roomers or lodgers; or
- (g) Up to seven unrelated students enrolled at a single accredited college or university occupying a student apartment, as such term is defined in the New York city building code, and maintaining a common household pursuant to a lease, sublease, or occupancy agreement directly with such college or university, provided that:
 - (i) The entire structure in which the dwelling unit is located is fully sprinklered in accordance with chapter 9 of the New York city building code; and
 - (ii) Such occupancy does not exceed the maximums contained in subdivision a of section 27-2075; and
 - (iii) Prior to commencement of such occupancy, and on an annual basis thereafter such college or university has submitted a fire safety plan containing fire safety and evacuation procedures for such dwelling unit that is acceptable to the fire commissioner and in compliance with any rules promulgated by the fire commissioner; and
 - (iv) The dwelling unit complies with additional occupancy and construction requirements as may be established by rule by the department of housing preservation and development or its successor.

A common household is deemed to exist if every member of the family has access to all parts of the dwelling unit. Lack of access to all parts of the dwelling unit establishes a rebuttable presumption that no common household exists.

5. "Person," for the purposes of article four of subchapter three of this chapter, means any adult or child over the age of four years. The term "person" as used in subchapters four and five of this code shall include the owner, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of a dwelling or part thereof. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to section 27-2114 of article one of subchapter five of this chapter and such declaration shall have been filed as therein provided, the term "person" shall be deemed to include, in addition to those mentioned hereinabove, all the officers, directors and persons having an interest in more than ten percent of the issued and outstanding stock of the owner as herein defined, as holder or beneficial owner thereof, if such person be a corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or by at least twenty savings and loan

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associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation.

6. A private dwelling is any building or structure designed and occupied for residential purposes by not more than two families. Private dwellings shall also be deemed to include a series of one-family or two-family dwelling units each of which faces or is accessible to a legal street or public thoroughfare, if each such dwelling unit is equipped as a separate dwelling unit with all essential services, and if each such unit is arranged so that it may be approved as a legal one-family or two-family dwelling.
7. A multiple dwelling is a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied, as the residence or home of three or more families living independently of each other. A multiple dwelling shall also include residential quarters for members or personnel of any hospital staff which are not located in any building used primarily for hospital use, but any building which was erected, altered or converted prior to July first, nineteen hundred fifty-five, to be occupied by such members or personnel or is so occupied on such date shall not be subject to the requirements of this code only so long as it continues to be so occupied if there are local laws applicable to such building and such building is in compliance with such local laws. A multiple dwelling does not include (i) a hospital, convent, monastery, asylum or public institution; or (ii) a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families. For the purposes of this chapter, multiple dwellings are divided into two classes: "class A" and "class B."
8.
 - (a) A class A multiple dwelling is a multiple dwelling that is occupied for permanent residence purposes. This class shall include tenements, flat houses, maisonette apartments, apartment houses, apartment hotels, bachelor apartments, studio apartments, duplex apartments, kitchenette apartments, garden-type maisonette dwelling projects, and all other multiple dwellings except class B multiple dwellings. A class A multiple dwelling shall only be used for permanent residence purposes. For the purposes of this subparagraph, "permanent residence purposes" shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more, and a natural person or family so occupying a dwelling unit shall be referred to herein as the permanent occupants of such dwelling unit. The following uses of a dwelling unit by the permanent occupants thereof shall not be deemed to be inconsistent with occupancy of such dwelling unit for permanent residence purposes:
 - (1)
 - (A) occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons living within the household of the permanent occupant such as house guests or lawful boarders, roomers or lodgers; or
 - (B) incidental and occasional occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons when the permanent occupants are temporarily absent for personal reasons such as vacation or medical treatment, provided that there is no monetary compensation paid to the permanent occupants for such occupancy.

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- (2) In a class A multiple dwelling owned by an accredited not-for-profit college or university or leased by such a college or university under a net lease for a term of forty-nine years or more, the use of designated dwelling units for occupancy for fewer than thirty consecutive days shall not be inconsistent with the occupancy of such multiple dwelling for permanent residence purposes if:
- (A) No more than five percent of the dwelling units in such multiple dwelling but not less than one dwelling unit, are designated for such use and the designation of a unit once made may not be changed to another unit;
 - (B) A list of the designated dwelling units certified by an authorized representative of the college or university is kept on the premises by the owner or net lessee and made available upon request for inspection by the department or the fire department of such city;
 - (C) Only designated dwelling units on the certified list are used for occupancy for fewer than thirty consecutive days and only by (i) natural persons, other than persons whose only relationship with the college or university is as a student, for whom the college or university has undertaken to provide housing accommodations such as visiting professors and academics, graduate students with research or teaching fellowships, researchers and persons presenting academic papers, interviewing for positions of employment or having other similar business with the college or university, or (ii) natural persons for whom a hospital affiliated with such college or university has undertaken to provide housing accommodations such as patients, patients' families and/or accompanying escorts, medical professionals and healthcare consultants or persons having other similar business with such hospital. A log shall be maintained on the premises of the names and addresses of such persons and the duration and reason for their stay. Such log shall be accessible upon request for inspection by the department and the fire department of such municipality;
 - (D) No rent or other payment is collected for such occupancy; and
 - (E) The fire department of such city shall require the filing of a fire safety plan or other appropriate fire safety procedure.
- (b) A garden-type maisonette dwelling project is a series of attached, detached or semi-detached dwelling units which are provided as a group collectively with all essential services such as, but not limited to, water supply and house sewers, and which units are located on a site or plot not less than twenty thousand square feet in area under common ownership and erected under plans filed with the department on or after April eighteenth, nineteen hundred fifty-four, and which units together and in their aggregate are arranged or designed to provide three or more apartments.
9. A class B multiple dwelling is a multiple dwelling which is occupied, as a rule, transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals. This class includes hotels, lodging houses, rooming houses, boarding houses, boarding schools, furnished room houses, lodgings, club houses, and college and school dormitories.
10. A converted dwelling is a dwelling (i) erected before April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied as a multiple dwelling or (ii) a dwelling three stories or less in

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height erected after April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied by not more than three families in all, with a maximum occupancy of two families on each floor in a two story building and one family on each floor in a three story building. A converted dwelling occupied as a class A multiple dwelling is a class A converted dwelling; every other converted dwelling is a class B converted dwelling.

11. A tenement is any building or structure or any portion thereof, erected before April eighteenth, nineteen hundred twenty-nine, which is occupied, wholly or in part, as the residence of three families or more living independently of each other and doing their cooking upon the premises and includes apartment houses, flat houses and all other houses so erected and occupied, except that a tenement shall not be deemed to include any converted dwelling. An old law tenement is a tenement existing before April twelfth, nineteen hundred one, and recorded as such in the tenement house department before April eighteenth, nineteen hundred twenty-nine, except that it shall not be deemed to include any converted dwelling.
12. A hotel is an inn having thirty or more sleeping rooms.
13. Dwelling unit shall mean any residential accommodation in a multiple dwelling or private dwelling.
14. Apartment shall mean one or more living rooms, arranged to be occupied as a unit separate from all other rooms within a dwelling, with lawful sanitary facilities and a lawful kitchen or kitchenette for the exclusive use of the family residing in such unit.
15. Rooming unit shall mean one or more living rooms arranged to be occupied as a unit separate from all other living rooms, and which does not have both lawful sanitary facilities and lawful cooking facilities for the exclusive use of the family residing in such unit. It may be located either within an apartment or within any class A or class B multiple dwelling. A rooming unit shall not include a living room in a class B hotel or any other dwelling complying with section sixty-seven of the multiple dwelling law and so classified and recorded in the department.
16. Rooming house shall mean a class B converted dwelling with more than half of the rooms in rooming units.
17. Single room occupancy is the occupancy by one or two persons of a single room, or of two or more rooms which are joined together, separated from all other rooms within an apartment in a multiple dwelling, so that the occupant or occupants thereof reside separately and independently of the other occupant or occupants of the same apartment. When a class A multiple dwelling is used wholly or in part for single room occupancy, it remains a class A multiple dwelling.
18. A lodging house is a multiple dwelling, other than a hotel, a rooming house or a furnished room house, in which persons are housed for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any term less than a week.
19. Public hall shall mean a hall, corridor or passageway within a building but outside of all apartments and suites of private rooms.
20. Public part of a dwelling includes a public hall and any space used in common by the occupants of two or more apartments or rooms, or by persons who are not tenants, or exclusively for mechanical equipment of such dwelling or for storage purposes.

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21. Living room shall mean any room within a dwelling unit except a dining space, kitchenette, bathroom or water closet compartment, foyer or private hall, corridor or passageway.
22. The floor area is the clear area of the floor contained within the partitions or walls enclosing any room, space, foyer, hall or passageway of any dwelling.
23. Dining space shall mean a space with fifty-five square feet or less of floor area, which has such permanent fittings as the department requires, located off a living room, foyer or kitchen. A dining space includes a dining bay, dining recess or dinette.
24. Foyer shall mean a space within a dwelling unit in a multiple dwelling used as an entrance hall from the public hall, which is not a living room when its floor area does not exceed either: (a) ten percent of the total floor area of the dwelling unit; or (b) twenty percent of such floor area, if every living room is at least twenty percent larger than the required minimum room size.
25. Kitchen shall mean a living room used for cooking with eighty square feet or more of floor area.
26. Kitchenette shall mean a space used for cooking with less than eighty square feet of floor area.
27. Dormitory shall mean a space occupied for sleeping purposes by three or more persons who are not members of a family maintaining a common household in:
 - a. A lodging house, except for an apartment occupied solely by an owner, janitor or superintendent; or
 - b. A college or school dormitory legally recorded and classified in the department prior to May fifteenth, nineteen hundred fifty-four, or converted to such use prior to April thirtieth, nineteen hundred fifty-six; or
 - c. A dwelling owned and operated by a religious, charitable or educational organization for the purposes enumerated in section 27-2077 of article four of subchapter three of this chapter; or
 - d. A dwelling owned, operated or used for the purposes enumerated in section 27-2077 of article four of subchapter three of this chapter.
28. Premises shall mean land and improvements or appurtenances or any part thereof.
29. Structure shall mean a building or construction of any kind.
30. Alteration, as applied to a building or structure, shall mean any change or rearrangement in the structural parts or in the existing facilities of any such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location or position to another.
31. A multiple dwelling is fireproof if the walls and structural members thereof meet the fire-resistive standards set forth in subdivision twenty-five of section four of the multiple dwelling law. Any other multiple dwelling is nonfireproof. A part of a dwelling is fireproof if it meets the standard set forth in the multiple dwelling law for the corresponding part of a fireproof dwelling.
32. Fire-retarded shall mean either covered with metal lath plastered with two or more coats of mortar or otherwise protected against fire in a manner approved by the department with materials of standard fire resistive ratings of at least one hour. Fireproofing shall always be accepted as meeting any requirement for fire-retarding.
33. A rear yard is an open space on the same lot with a dwelling between the extreme rear line of the lot and the extreme rear wall of the dwelling. A side yard is a continuous open

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space on the same lot with a dwelling between the wall of a dwelling and a line of the lot from the street to a rear yard or rear line of a lot.

34. A court is an open space other than a side or rear yard, on the same lot as a dwelling. A court not extending to the street or rear yard is an inner court. A court extending to the street or rear yard is an outer court.
35. A story is a space between the level of one finished floor and the level of the next higher finished floor, or, if the top story, the space between the level of the highest finished floor and the top of the highest roof beams, or, if the first story, the space between the level of the finished floor and the finished ceiling immediately above. For the purpose of measuring height by stories in multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, one additional story shall be added for each twelve feet or fraction thereof that the first story exceeds fifteen feet in height, and for each twelve feet or fraction thereof that any story above the first story exceeds twelve feet in height.
36. Except as otherwise provided, the curb level, for the purpose of measuring the height of any portion of a building, is the level of the curb at the center of the front of the building; except that where a building faces on more than one street, the curb level is the average of the levels of the curbs at the center of each front. Where no curb elevation has been established the mean level of the land immediately adjacent to the building prior to any excavation or fill shall be considered the curb level, unless the city engineer shall establish such curb level or its equivalent.
37. A cellar in a dwelling is an enclosed space having more than one-half of its height below the curb level. A cellar shall not be counted as a story.
38. A basement is a story partly below the curb level but having at least one-half of its height above the curb level. A basement shall be counted as a story.
39. A shaft is an enclosed space extending through one or more stories of a building connecting a series of openings therein, or any story or stories and the roof, and includes exterior and interior shafts whether for air, light, elevator, dumbwaiter or any other purpose.
40. A stair is a flight or flights of steps together with any landings and parts of public halls through which it is necessary to pass in going from one level thereof to another.
41. A fire stair is a fireproof stair, enclosed in fireproof walls, within the body of the building which it serves, to which access may be had only through self-closing fireproof doors.
42. A fire tower is a fireproof stair, enclosed in fireproof walls, without access to the building from which it affords egress other than by a fireproof self-closing door opening on a communicating balcony or other outside platform at each floor level.
43. A fire escape is a combination of outside balconies and stairs providing an unobstructed means of egress from rooms or spaces in a building.
44. Window dimensions shall always be taken between stop beads or, if there are no stop beads, between the sides, head and sill of the sash opening.
45. The term "owner" shall mean and include the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation, directly or indirectly in control of a dwelling. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to section 27-2114 of article one of subchapter five of this chapter and such declaration shall have been filed, as therein provided, and for the purposes of section 27-198 of article nineteen of subchapter one and

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section 27-2093 of article one of subchapter four of this code, the term "owner" shall be deemed to include, in addition to those mentioned hereinabove, all the officers, directors and persons having an interest in more than ten per cent of the issued and outstanding stock of the owner as herein defined, as holder or beneficial owner thereof, if such owner be a corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or by at least twenty savings and loan associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation.

46. Summer resort dwelling shall mean a dwelling, located in a summer resort community, which is occupied in whole or in part for living purposes only for a seasonal period of the year between June first and September thirtieth, other than by the family of the owner or the family of a caretaker.
47. This code shall mean the housing maintenance code.
48. Except where otherwise provided, the term "harassment" shall mean any act or omission by or on behalf of an owner that (i) causes or is intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, and (ii) includes one or more of the following acts or omissions, provided that there shall be a rebuttable presumption that such acts or omissions were intended to cause such person to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, except that such presumption shall not apply to such acts or omissions with respect to a private dwelling, as defined in paragraph six of subdivision a of section 27-2004:
 - a. using force against, or making express or implied threats that force will be used against, any person lawfully entitled to occupancy of such dwelling unit;
 - a-1. knowingly providing to any person lawfully entitled to occupancy of a dwelling unit false or misleading information relating to the occupancy of such unit;
 - a-2. making a false statement or misrepresentation as to a material fact regarding the current occupancy or the rent stabilization status of a building or dwelling unit on any application or construction documents for a permit for work which is to be performed in the building containing the dwelling unit of any person lawfully entitled to occupancy of such dwelling unit if such building is governed by the New York city construction codes;
 - b. repeated interruptions or discontinuances of essential services, or an interruption or discontinuance of an essential service for an extended duration or of such significance as to substantially impair the habitability of such dwelling unit;
 - b-1. an interruption or discontinuance of an essential service that (i) affects such dwelling unit and (ii) occurs in a building where repeated interruptions or discontinuances of essential services have occurred;
 - b-2. repeated failures to correct hazardous or immediately hazardous violations of this code or major or immediately hazardous violations of the New York city construction codes, relating to the dwelling unit or the common areas of the

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- building containing such dwelling unit, within the time required for such corrections;
- b-3. repeated false certifications that a violation of this code or the New York city construction codes, relating to the building containing such dwelling unit, has been corrected;
 - b-4. engaging in repeated conduct within the building in violation of section 28-105.1 of the New York city construction codes;
 - c. failing to comply with the provisions of subdivision c of section 27-2140 of this chapter;
 - d. commencing repeated baseless or frivolous court proceedings against any person lawfully entitled to occupancy of such dwelling unit;
 - d-1. commencing a baseless or frivolous court proceeding against a person lawfully entitled to occupancy of such dwelling unit if repeated baseless or frivolous court proceedings have been commenced against other persons lawfully entitled to occupancy in the building containing such dwelling unit;
 - e. removing the possessions of any person lawfully entitled to occupancy of such dwelling unit;
 - f. removing the door at the entrance to an occupied dwelling unit; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying a key to the new lock to the persons lawfully entitled to occupancy of such dwelling unit; or
 - f-1. contacting any person lawfully entitled to occupancy of such dwelling unit, or any relative of such person, to offer money or other valuable consideration to induce such person to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, for 180 days after the owner has been notified, in writing, that such person does not wish to receive any such offers, except that the owner may contact such person regarding such an offer if given express permission by a court of competent jurisdiction or if notified in writing by such person of an interest in receiving such an offer;
 - f-2. the purpose of such contact,
 - (2) that such person may reject any such offer and may continue to occupy such dwelling unit,
 - (3) that such person may seek the guidance of an attorney regarding any such offer and may, for information on accessing legal services, refer to The ABCs of Housing guide on the department's website,
 - (4) that such contact is made by or on behalf of such owner, and
 - (5) that such person may, in writing, refuse any such contact and such refusal would bar such contact for 180 days, except that the owner may contact such person regarding such an offer if given express permission by a court of competent jurisdiction or if notified in writing by such person of an interest in receiving such an offer;
 - f-3. offering money or other valuable consideration to a person lawfully entitled to occupancy of such dwelling unit to induce such person to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy while engaging in any of the following types of conduct:
 - (1) threatening, intimidating or using obscene language;

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- (2) initiating communication with such frequency, at such unusual hours or in such a manner as can reasonably be expected to abuse or harass such person;
 - (3) initiating communication at the place of employment of such person without the prior written consent of such person; or
 - (4) knowingly falsifying or misrepresenting any information provided to such person;
- f-4. repeatedly contacting or visiting any person lawfully entitled to occupancy of such unit (i) on Saturdays, Sundays or legal holidays, (ii) at times other than the hours between 9 a.m. and 5 p.m. or (iii) in such a manner as can reasonably be expected to abuse or harass such person, provided that if such person has notified such owner in writing that such person consents to being contacted or visited at specified hours or in a specified manner, such owner may also contact or visit such person during such specified hours and in such specified manner, and provided further that an owner may contact or visit such person for reasons specifically authorized or mandated by law or rule; or
- f-5. threatening any person lawfully entitled to occupancy of such dwelling unit based on such person's actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, uniformed service, sexual orientation, alienage or citizenship status, status as a victim of domestic violence, status as a victim of sex offenses or stalking, lawful source of income or because children are, may be or would be residing in such dwelling unit, as such terms are defined in sections 8-102 and 8-107.1 of the code;
- f-6. requesting identifying documentation for any person lawfully entitled to occupancy of such dwelling unit that would disclose the citizenship status of such person, when such person has provided the owner with a current form of government-issued personal identification, as such term is defined in section 21-908, unless such documentation is otherwise required by law or is requested for a specific and limited purpose not inconsistent with this paragraph.
- g. other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy.
- b. Except as otherwise provided herein, all terms used in this chapter shall be construed in a manner consistent with their use in the multiple dwelling law.

SUBCHAPTER 2 MAINTENANCE, SERVICES, AND UTILITIES

ARTICLE 1 OBLIGATIONS OF OWNER AND TENANT: DUTY TO REPAIR

§27–2005 **Duties of owner.**

- a. The owner of a multiple dwelling shall keep the premises in good repair.

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- b. The owner of a multiple dwelling, in addition to the duty imposed upon such owner by subdivision a of this section, shall be responsible for compliance with the requirements of this code, except insofar as responsibility for compliance is imposed upon the tenant alone.
- c. The owner of a one- or two-family dwelling shall keep the premises in good repair, and shall be responsible for compliance with the provisions of this code, except to the extent otherwise agreed between such owner and any tenant of such dwelling by lease or other contract in writing, or except insofar as responsibility for compliance with this code is imposed upon the tenant alone.
- d. The owner of a dwelling shall not harass any tenants or persons lawfully entitled to occupancy of such dwelling as set forth in paragraph 48 of subdivision a of section 27-2004 of this chapter.
- e.
 - 1. The owner of a multiple dwelling shall provide lawful occupants of such multiple dwelling with notice prior to making repairs, or performing other work, that will cause an interruption of any heat, hot water, cold water, gas or electricity service expected to last for two or more hours. The department shall by rule prescribe the form, timing and placement of the notice, provided that the notice shall be publicly posted in a prominent place within the multiple dwelling at least twenty-four hours before the interruption of such service is expected to commence and shall remain posted until such interruption ends. Where the owner expects that an interruption of any heat, hot water, cold water, gas or electricity service will last for less than two hours or where such interruption is due to emergency repairs or work, as defined by department rule, advance notice need not be posted, provided that where such interruption lasts for two or more hours, notice shall be posted as soon as practicable after the commencement of such interruption. Such notice shall identify the service to be interrupted, the type of work to be performed, the expected start and end dates of the service interruption. The notice shall be updated as needed. Such notice shall be posted in English, Spanish and such other languages as the department may provide by rule.
 - 2. Repairs made pursuant to section 27-2125 of this code shall be exempt from the provisions of this subdivision.
- f. The owner of a dwelling shall deliver or cause to be delivered to each tenant and prospective tenant of such dwelling, along with the lease or lease renewal form for such tenant or prospective tenant, and shall post and maintain in a common area of the building containing such dwelling, a notice, in a form developed or approved by the department, regarding the procedures that should be followed when a gas leak is suspected. Such notice may be combined with any existing required notices and shall instruct tenants to first call 911 and then call the relevant gas service provider, whose name and emergency phone number shall be set forth on such notice, before contacting such owner or an agent thereof when a gas leak is suspected.

§27-2006 **Duties of tenant.**

- a. A tenant shall, in addition to complying with all provisions of this code and the multiple dwelling law applicable to him or her, be responsible for violations of this code to the extent that he or she has the power to prevent the occurrence of a violation. A tenant has the power to prevent the occurrence of a violation if:
 - (1) It is caused by his or her own wilful act or that of a member of his or her family or household, or a guest; or

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(2) It is the result of such tenant's gross negligence, neglect or abuse, or the gross negligence, neglect or abuse of a member of his or her family, or household or a guest.

- b. The tenant, any member of his or her family or household, or his or her guest shall, with respect to the public parts of the premises, be liable if a violation is caused by such tenant's own wilful act, gross negligence, neglect or abuse.
- c. The fact that a tenant is or may be liable for a violation of this code or any other law or is found liable for civil or criminal penalties does not relieve the owner of his or her obligation to keep the premises, and every part thereof, in good repair.

§27-2007 **Certain specific duties of tenants and others.** In addition to other duties imposed upon him or her by this code, no tenant, or any other person, shall:

- a. Remove or render inoperative any self-closing device on any door which is required by any provision of law to be self-closing, or cause or permit such door to be held open by any device;
- b. Use, or cause or permit to be installed, a lowered door or screen door in addition to or in place of any required self-closing door to a public hall;
- c. Place any encumbrance before or upon, or cause access to be obstructed to, any fire escape, or obstruct by a baby carriage or any encumbrance, the public halls or any required means of egress;
- d. Take down, alter, destroy, or in any way deface any sign required by this code to be displayed.
- e. Remove or render inoperative any shower head installed by the owner which meets the standards of subdivision P. 104.2 of section P. 104.0 of reference standard RS-16 of the appendix to chapter one of this title.

§27-2008 **Owner's right of access.** No tenant shall refuse to permit the owner, or his or her agent or employee, to enter such tenant's dwelling unit or other space under his or her control to make repairs or improvements required by this code or other law or to inspect such apartment or other space to determine compliance with this code or any other provision of law, if the right of entry is exercised at a reasonable time and in a reasonable manner. The department may by regulation restrict the time and manner of such inspections.

§27-2009 **Tenant violations as grounds for eviction.** Any conviction of a tenant for violation of this code which:

- (1) Results from wilful or grossly negligent conduct and causes substantial damage to the dwelling units; or
- (2) Results from repeated or continued conduct which causes damage to the dwelling unit or substantially interferes with the comfort or safety of another person; or
- (3) Consists of an unreasonable refusal to afford access to the dwelling unit to the owner or his or her agent or employee for the purpose of making repairs or improvements required by this code, shall constitute grounds for summary proceedings by the owner to recover possession of such dwelling unit from the tenant.

§27-2009.1 **Rights and responsibilities of owners and tenants in relation to pets.**

- a. Legislative declaration. The council hereby finds that the enforcement of covenants contained in multiple dwelling leases which prohibit the harboring of household pets has led to widespread abuses by building owners or their agents, who knowing that a tenant has a pet for an extended period of time, seek to evict the tenant and/or his or her pet often for reasons unrelated to the creation of a nuisance. Because household pets are kept for reasons of safety and companionship and under the existence of a continuing housing

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emergency it is necessary to protect pet owners from retaliatory eviction and to safeguard the health, safety and welfare of tenants who harbor pets under the circumstances provided herein, it is hereby found that the enactment of the provisions of this section is necessary to prevent potential hardship and dislocation of tenants within this city.

- b. Where a tenant in a multiple dwelling openly and notoriously for a period of three months or more following taking possession of a unit, harbors or has harbored a household pet or pets, the harboring of which is not prohibited by the multiple dwelling law, the housing maintenance or the health codes of the city of New York or any other applicable law, and the owner or his or her agent has knowledge of this fact, and such owner fails within this three month period to commence a summary proceeding or action to enforce a lease provision prohibiting the keeping of such household pets, such lease provision shall be deemed waived.
- c. It shall be unlawful for an owner or his or her agent, by express terms or otherwise, to restrict a tenant's rights as provided in this section. Any such restriction shall be unenforceable and deemed void as against public policy.
- d. The waiver provision of this section shall not apply where the harboring of a household pet causes damage to the subject premise, creates a nuisance or interferes substantially with the health, safety or welfare of other tenants or occupants of the same or adjacent building or structure.
- e. The New York city housing authority shall be exempt from the provisions of this section.

§27-2009.2 **Safe construction bill of rights.**

- a. Definitions. As used in this section:

Amenity. The term “amenity” means any equipment, feature or space within a multiple dwelling that may be used in common by the building occupants, including, but not limited to, entrances, elevators, stairways, freight elevators, laundry rooms, laundry equipment, exercise rooms, community rooms, outdoor areas, parking spaces, storage units, or wireless internet.

Essential service. The term “essential service” means heat, hot water, cold water, electricity, gas, maintenance and janitorial services, and elevator service and any other services that the commissioner determines by rule to be essential.

- b. Notice.

1. Contemporaneously with an application for a permit for work not constituting minor alterations or ordinary repairs, contemporaneously with the owner’s notification of the department that an emergency work permit is being sought, or, for new buildings, immediately upon application for a temporary certificate of occupancy, the owner of a multiple dwelling shall (i) distribute a notice, titled the “Safe Construction Bill of Rights,” to each occupied dwelling unit or (ii) post such notice, in a conspicuous manner in the building lobby, adjacent to the posted notice required pursuant to chapter 11 of title 26 of the code, and on every floor within 10 feet of every elevator bank, or, in a building with no elevator, within 10 feet of or inside every main stairwell.
2. Such notice shall remain posted until the completion of the described permitted work.

- c. Notice content. The notice required pursuant to this section shall contain the following information, and shall be updated within one week of any change to such information:

1. A description of the type of work being conducted and the locations in the multiple dwelling where the work will take place;

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2. The hours of construction;
 3. The projected timeline for the completion of the work;
 4. A description of the amenities or essential services anticipated to be unavailable or interrupted during the work and how the owner will minimize such unavailability or interruption;
 5. The contact information, including a telephone number, for an agent or employee of the owner who can be reached for non-emergency matters pertaining to the work being performed;
 6. The contact information, including a telephone number, for an agent or employee of the owner who can be reached for emergency matters pertaining to the work being performed 24 hours a day, 7 days a week during the period of construction; and 3
 7. The contact information for the relevant city and state agencies where occupants may submit complaints or ask questions about the work being performed.
- d. Tenant protection plan. When notice is required pursuant to this section, the owner shall (i) distribute a notice meeting the requirements of section 28-104.8.4.3 of the code regarding the tenant protection plan to each occupied dwelling unit or (ii) post such notice in a conspicuous manner in the building lobby, as well as on each floor within 10 feet of the elevator, or in a building where there is no elevator, within 10 feet of the main stairwell on such floor.
- e. Language requirement. The notice required pursuant to this section shall be published in English, Spanish and such other languages as the department may provide by rule.
- f. Protection. All postings required by this section shall be laminated or encased in a plastic covering deemed appropriate by the commissioner.
- g. Enforcement. The provisions of this section may be enforced by the department or the department of buildings.
- h. Violations and penalties. Any owner who fails to comply this section shall be liable for an immediately hazardous violation and subject to penalties associated with such violation, as defined in section 27-2115 of the code.

ARTICLE 2 CLEANING

§27–2010 Cleaning of roofs, yards, courts and other open spaces. The owner of a dwelling containing two or more dwelling units, and the occupant of a single family dwelling shall keep the roof, yard, courts and other open spaces clean and free from dirt, filth, garbage or other offensive material.

§27–2011 Cleaning of interior shared space. The owner of a dwelling shall maintain the public parts in a clean and sanitary condition.

§27–2012 Cleaning of interior of dwelling units.

- a. The occupant of a dwelling shall maintain the dwelling unit which he or she occupies and controls in a clean and sanitary condition except as provided in subdivision b of this section.
- b. The owner of all rooming units in a rooming house or an entire multiple dwelling used for single room occupancy, or the person in control of an apartment containing rooming units, shall clean any such unit before any change in occupancy and at least once a week during the

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period of occupancy and shall at all times maintain the same in a clean and sanitary condition.

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ARTICLE 3
PAINTING

§27–2013 Painting of public parts and within dwellings.

- a. In the public parts of a multiple dwelling, and in a tenant-occupied dwelling unit in a one- or two-family dwelling, the owner shall:
 - (1) Paint or cover the walls and ceilings with wallpaper or other acceptable wall covering; and
 - (2) Repaint or re-cover the walls and ceilings with wallpaper or other acceptable wall covering whenever necessary in the judgment of the department to keep such surfaces sanitary.
- b. In occupied dwelling units in a multiple dwelling, the owner shall:
 - (1) Paint or cover the walls and ceilings with wallpaper or other acceptable wall covering; and
 - (2) Repaint or re-cover the walls and ceilings with wallpaper or other acceptable wall covering every three years, and more often when required by contract or other provisions of law.
- c. The department may require a tenant of a dwelling unit in a multiple dwelling to repaint or re-cover the interior walls and ceilings of such tenant's dwelling unit with wallpaper or other acceptable wall covering if such walls and ceilings become unsanitary at any time within three years from the date of the last refinishing by the owner. However, if the tenant can show, to the satisfaction of the department, that the walls and ceilings have become unsanitary through no act or neglect of his or her own or of such tenant's family or guests, the department may require the owner to repaint or re-cover the same. This subdivision does not relieve the owner from his or her duties under paragraph two of subdivision b of this section.
- d. The owner and tenant of any dwelling unit in a multiple dwelling may, by voluntary agreement, provide that the owner need not repaint in such unit as required by paragraph two of subdivision b of this section for such additional period, not to exceed two years, as may be agreed upon. Such an agreement to extend the time for repainting shall not be valid unless it has been entered into not earlier than one month prior to the expiration of the three-year period, and shall not form part of any agreement of lease. The department may prescribe the form of such agreements, require them to be filed, and may make such other regulations as may be necessary to avoid abuse, and to further the purposes of this article. Notwithstanding any agreement, the department may, during the period for which repainting is deferred by agreement order repainting by the owner in any dwelling unit when deemed necessary to keep the walls and ceilings of such unit sanitary. This subdivision shall not affect the applicability of subdivision c of this section during the three years after any repainting or re-covering.
- e. Neither the owner nor a tenant of a dwelling unit shall place wallpaper or wall covering upon a wall or ceiling in the public or tenant-occupied parts of a dwelling unless existing wallpaper or wall covering is first removed and such wall or ceiling is cleaned and repaired. However, if wallpaper or wall covering is in good condition, free from vermin and a coat of acceptable paint or sizing is applied, one additional layer of wallpaper or wall covering may be applied.

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- f. Nothing contained in this section shall be deemed to require the owner of a dwelling to cover with wallpaper or other acceptable covering any wall or ceiling not previously so covered by such owner. When a wall or ceiling of a dwelling unit has been decorated with paper, wood paneling, or other material over which paint normally is not applied, the owner shall be relieved of his or her obligation to repaint or recover such wall or ceiling so long as the same remains in a sanitary condition, in the judgment of the department. When the department requires redecoration of such wall or ceiling, the tenant shall remove any paper, wall covering, wood paneling or other material which such tenant has applied before the owner is required to clean and repair and repaint or re-cover. However, if the owner or a former tenant has applied paper, wall covering, wood paneling or other material, the owner shall be responsible for its removal before redecoration.
- g. The owner of a multiple dwelling shall keep and maintain records relating to the refinishing of public parts and dwelling units showing when such parts were last painted or papered or covered with acceptable material and who performed the work. Such records shall be open to inspection by the department, and shall be submitted to the department upon request.
- h. Repealed.

§27-2014 **Window frames and fire escapes.**

- a. At least once every five years, the owner of a dwelling shall paint all exterior window frames and sashes with one coat of an exterior paint. The department may require a more frequent repainting of any window frame or sash, as it deems necessary. This subdivision shall not apply to window frames and sashes of approved atmospheric corrosion resistant metal.
- b. The owner of a dwelling shall paint every fire escape with two coats of paint of contrasting colors. The owner shall paint the first coat before and the second after erection of a new fire escape, except that this shall not apply to fire escapes constructed of approved atmospheric corrosion resistant metal. Whenever a fire escape becomes corroded, the owner shall scrape and remove the corrosion products and repaint it with two coats of paint of contrasting colors.

§27-2015 **Courts and shafts.**

- a. The owner of a multiple dwelling shall whitewash the walls enclosing all courts and shafts not made of light-colored brick or stone or shall paint such walls a light color, and shall maintain them in a clean condition.
- b. As often as it deems necessary, the department may require the owner of a multiple dwelling:
 - (1) To whitewash or repaint the walls enclosing courts and shafts not made of a light-colored brick or stone; and
 - (2) To clean the walls enclosing courts and shafts made of a light-colored brick or stone.
- c. This section does not apply to:
 - (1) Outer courts which open on a street; or
 - (2) Courts which exceed the minimum dimensions set forth in section twenty-six of the multiple dwelling law by at least fifty percent.

§27-2016 **Departmental regulations concerning paint and wall covering and quality and frequency of repainting or re-covering.**

- a. The department may by regulation prescribe or approve the kind and quality of paints or wall covering which may be used to satisfy the requirements of this article.
- b. The department may by regulation extend the time for repainting when in its judgment the particular kind and quality of paint or wall covering used is designed to wear for considerably longer periods of time than the time set for repainting in this article. An owner

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who uses such long-wearing paints or wall covering shall inform the department prior to his or her doing so in accordance with departmental regulations.

ARTICLE 4
EXTERMINATION AND RODENT ERADICATION

§27–2017 **Definitions.** When used in this article:

- (a) Eradication means the elimination of rodents or insects and other pests from any premises through the use of traps, poisons, fumigation or any other method of extermination.
- (b) Insects and other pests include the members of class insecta, including houseflies, lice, bees, cockroaches, moths, silverfish, beetles, bedbugs, ants, termites, hornets, mosquitoes and wasps, and such members of the phylum arthropoda as spiders, mites, ticks, centipedes and wood lice.
- (c) Harborage means any condition which provides shelter or protection for rodents or insects and other pests.

§27–2018 **Rodent and insect eradication; mandatory extermination.**

- a. The owner or occupant in control of a dwelling shall keep the premises free from rodents, and from infestations of insects and other pests, and from any condition conducive to rodent or insect and other pest life.
- b. When any premises are subject to infestation by rodents or insects and other pests, the owner or occupant in control shall apply continuous eradication measures.
- c. When the department makes the determination that any premises are infested by rodents, insects or other pests, it may order such eradication measures as the department deems necessary.

§27–2018.1 **Notice of bedbug infestation history.**

- a. For housing accommodations subject to this code, an owner shall furnish to each tenant signing a vacancy lease, a notice in a form promulgated or approved by the state division of housing and community renewal that sets forth the property's bedbug infestation history for the previous year regarding the premises rented by the tenant and the building in which the premises are located.
- b. Upon written complaint, in a form promulgated or approved by the division of housing and community renewal, by the tenant that he or she was not furnished with a copy of the notice required pursuant to subdivision a of this section, the division of housing and community renewal shall order the owner to furnish the notice.
- c. An owner of a multiple dwelling shall (i) provide each tenant, upon commencement of a new lease and with each renewal lease, or (ii) post in a prominent public location within such multiple dwelling the following:
 - 1. a copy of the most recent electronic form submitted pursuant to subdivision a of section 27-2018.2; and
 - 2. a notice, in a form promulgated or approved by the department of health and mental hygiene, that provides information about the prevention, detection and removal of bedbug infestations.

§27–2018.2 **Reporting bedbug infestations.**

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- a. An owner of a multiple dwelling shall annually report the department, on an electronic form established by the department, the following information about such multiple dwelling:
 1. The street address;
 2. The number of dwelling units;
 3. The number of dwelling units, as reported or otherwise known to the owner, that had a bedbug infestation during the previous year;
 4. The number of dwelling units, as reported or otherwise known to the owner, in which eradication measures were employed during the previous year for a bedbug infestation;
 5. The number of dwelling units reported in paragraph 4 that had a bedbug infestation after such eradication measures were employed in such units; and
 6. If such form is given to each tenant within such multiple dwelling, a certification that a copy of such form was distributed to each tenant of such building upon each lease renewal or the commencement of a new lease issued since the previous filing with the department of such form.
- b. If such form is posted in a prominent location within the building, an owner of a multiple dwelling shall maintain a record that a copy of such form was prominently posted within 60 days of the filing of the information with the department.
- c. An owner of a multiple dwelling who has submitted a report to the department pursuant to subdivision a of this section may, at any time, submit an amended version of such report to reflect changes to such information.
- d. Owners of multiple dwellings shall attempt to obtain the bedbug infestation history for the previous year for each dwelling unit from the tenant or owner, including whether eradication measures were employed during the previous year for a bedbug infestation.
- e. The department may establish staggered reporting cycles by rule for owners required to comply with subdivision a of this section.
- f. For each multiple dwelling, the department shall make the information contained in the most recent electronic form submitted pursuant to subdivision a of this section, including the date such form was submitted, publicly available on its website no later than 30 days after receipt of such form.

§ 27–2019 **Elimination of harborages.** All building material, lumber, boxes, cartons, barrels, containers, machinery, raw material, fabricated goods, junk, food, animal feed and any other substance which may afford harborage or provide food for such rodents or insects and other pests shall be kept stored or handled by the owner and tenants of every dwelling in such manner as the department may require. The department may make orders to eliminate rat harborages to the person who is responsible for the conditions. The department shall uncover and inspect periodically all structural harborages which cannot be eliminated from dwellings.

ARTICLE 5 COLLECTION OF WASTES

§27–2020 **Definitions.** When used in this article:

- (a) Organic wastes shall mean all wastes produced by or from living organisms.

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- (b) Inorganic wastes shall mean all wastes other than organic wastes, including discarded lumber, wood shavings and furniture.
- (c) Household wastes shall mean all wastes, organic and inorganic, which are produced within a dwelling unit.

§27–2021 Receptacles for waste matter.

- a. The owner or occupant in control of a dwelling shall provide and maintain metal cans, or other receptacles jointly approved as to specifications by the department, the department of sanitation and the department of health and mental hygiene, for the exclusive use of each building, which shall be of sufficient size and number to contain the wastes accumulated in such building during a period of seventy-two hours. No receptacle shall be filled to a height so as to prevent the effective closure thereof and no receptacle shall weigh more than one hundred pounds when filled. The receptacles shall be so constructed as to hold their contents without leakage. Metal cans shall be provided with tight-fitting covers and other receptacles shall be effectively closed. When requested by the department of sanitation, the owner or occupant in control shall separate and place in separate receptacles, ashes, organic and inorganic wastes. Nothing contained in this subdivision shall prevent the department, the department of sanitation and the department of health and mental hygiene from jointly approving as to specifications other systems for the disposal of waste utilizing containers of larger size and different construction as may be appropriate for such systems.
- b. Metal cans shall be kept within the dwelling or as required by the department until the time for removal of their contents when they shall be placed in front of the dwelling. When inside storage is required, receptacles of other materials shall be kept in a metal can or a rat proof and fireproof room until the time of their removal when they shall be removed from the metal can and be neatly stacked in front of the dwelling. After the contents have been removed by the department of sanitation, any receptacles remaining shall be returned promptly to their place of storage. Metal cans shall be kept covered at all times and shall be disinfected regularly and maintained in a sanitary condition. Yard sweepings, hedge cuttings, grass, leaves, earth, stone, or bricks shall not be mixed with household wastes.
- c. Newspapers, wrapping paper, or other inorganic wastes which are likely to be blown or scattered about the streets shall be securely bundled, tied or packed before being placed for collection. Such material shall be kept and placed for collection in the same manner as the receptacles.

§27–2022 Frequency of collection of waste matter from dwelling units in multiple dwellings.

- a. The owner of a multiple dwelling shall not allow the accumulation except in a lawful receptacle of ashes or any type of waste matter in any part of the premises.
- b. In multiple dwellings where the owner provides dumbwaiter service, all waste matter shall be collected at least once daily and deposited in separate receptacles.
- c. In multiple dwellings where no dumbwaiter service is provided, the owner shall provide between the hours of seven a.m. and ten a.m. or between five p.m. and eight p.m. daily:
 - (1) a sufficient number of receptacles but in no event less than two within the dwelling or other area approved by the department which are accessible to the tenants. Such receptacles shall be removed promptly upon the expiration of the selected time period and taken to their place of storage; or
 - (2) a pick-up service at each dwelling unit to collect ashes and wastes for deposit in the receptacles referred to in section 27-2021 of this article.

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The owner shall post and maintain a notice in a conspicuous place in the dwelling informing the tenants of the hour and method of collection. A new notice shall be posted and maintained within forty-eight hours preceding any change in such hour or method.

- d. The tenant of a multiple dwelling shall dispose of waste matter in accordance with the method provided by the owner under subdivision b or c of this section. The tenant shall not accumulate any waste matter in his or her dwelling unit so as to create a condition which is unsanitary or a fire hazard in the judgment of the department.
- e. Subdivisions b, c and d of this section shall not apply to any multiple dwelling where regular incinerator services or other means of disposal approved by the department are provided. The tenant in such a dwelling shall dispose of waste matter in an incinerator or by such other approved means of disposal and shall not permit wastes to accumulate so as to create a condition which is unsanitary or a fire hazard in the judgment of the department.

§27–2023 Collection of waste matter from dwelling units in one and two-family dwellings. The owner and occupants of a one or two-family dwelling shall provide for the regular collection of waste matter from dwelling units and its deposit in the receptacles required by section 27-2021 of this article, and shall not permit ashes or any type of waste matter to accumulate in any part of the premises so as to create a condition which is unsanitary or a fire hazard in the judgment of the department.

ARTICLE 6 WATER SUPPLY

§27–2024 Water supply to buildings. The owner of a dwelling shall provide and maintain a supply of pure and wholesome water sufficient in quantity and at sufficient pressure to keep all plumbing fixtures adequately supplied for their sanitary maintenance. Where water mains are available in the street, every dwelling shall be supplied with water from such mains. The owner shall keep the water supply free from connection to any unsafe water supply or from cross-connections to any drainage system.

§27–2025 Water supply to individual units and fixtures. The owner of a dwelling shall provide proper appliances for the use of every dwelling unit to receive and distribute an adequate supply of water during all hours.

ARTICLE 7 SEWERS AND DRAINAGE

§27–2026 Maintenance of sewer connections and plumbing fixtures. The owner of a dwelling shall properly maintain and keep in good repair the plumbing and drainage system, including water closets, toilets, sinks and other fixtures.

§27–2027 Drainage of roofs and court yards.

- a. The owner of a dwelling shall grade and maintain the grading of all roofs, terraces, shafts, courts, yards, and other open spaces on the lot, and shall provide and maintain unobstructed drainage from these areas and spaces through a drain connected to a street storm-water main or combined sewer and street storm-water main. In the absence of a street storm-water main or combined sewer and street storm-water main, the department may permit the storm water

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from such areas to drain into a street gutter leading to a natural channel, water course, or dry well.

- b. The owner of a dwelling shall provide and maintain drainage from all roofs to carry off storm water, to prevent it from dripping to the ground, or from causing dampness in walls, ceilings, and open spaces.
- c. The department may require the owner of a dwelling to surface shafts, courts, yards, and other open spaces on the lot with concrete, and to pitch the surfaces of such areas towards a sewer-connected drain or other adequate drainage system, except that, with respect to private dwellings, the department may permit the surfacing of such areas with bituminous aggregate or other similar material.
- d. The owner of a dwelling may plant grass, sod, shrubs, trees and other vegetation in yards and courts, unless the department orders its removal because in its opinion such vegetation interferes with proper drainage, light, ventilation, or egress.

ARTICLE 8 HEAT AND HOT WATER

§27–2028 **Central heat or electric or gas heating system; when required.** Except as otherwise provided in this article, every multiple dwelling and every tenant-occupied one or two-family dwelling shall be provided with heat from a central heating system constructed in accordance with the provisions of the building code and the regulations of the department. A system of gas or electric heating provided for each dwelling unit may, if approved by the department, be utilized in lieu of a central heating system if:

- (1) the system is lawfully in use on July fourteenth, nineteen hundred sixty-seven; or
- (2) the system is approved by the appropriate city agencies having jurisdiction and is installed in a structure or building erected, converted, substantially rehabilitated, or completely vacated, after July fourteenth, nineteen hundred sixty-seven.

§27–2029 **Minimum temperature to be maintained.**

- a. During the period from October first through May thirty-first, centrally-supplied heat, in any dwelling in which such heat is required to be provided, shall be furnished so as to maintain, in every portion of such dwelling used or occupied for living purposes:
 - (1) between the hours of six a. m. and ten p. m., a temperature of at least sixty-eight degrees Fahrenheit whenever the outside temperature falls below fifty-five degrees; and
 - (2) between the hours of ten p. m. and six a. m., a temperature of at least sixty-two degrees Fahrenheit.
- b. During the period from October first through May thirty-first, all central heating systems required under this article shall be maintained free of any device which shall cause or which is capable of causing an otherwise operable central heating system to become incapable of providing the minimum requirements of heat or hot water as required by this article for any period of time. This subdivision shall not apply to any safety device required by law, or by a rule or regulation of any city agency, to be used in conjunction with a central heating system.

§ 27–2030 **Self-inspection of central heating plants.** Repealed

§ 27–2031 **Supply of hot water; when required.** Except as otherwise provided in this article, every bath, shower, washbasin and sink in any dwelling unit in a multiple dwelling or tenant-occupied one-family or two-family dwelling shall be supplied at all times between the hours of

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six a. m. and midnight with hot water at a constant minimum temperature of one hundred twenty degrees Fahrenheit from a central source of supply constructed in accordance with the provisions of the building code and the regulations of the department, provided however that baths and showers equipped with balanced-pressure mixing valves, thermostatic mixing valves or combination pressure balancing/thermostatic valves may produce a discharge temperature less than one hundred twenty degrees Fahrenheit but in no event less than one hundred ten degrees Fahrenheit. Gas or electric water heaters may, if approved by the department, be utilized in lieu of a central source of supply of hot water if such heaters:

- (1) are lawfully in use on July fourteenth, nineteen hundred sixty-seven; or
- (2) are approved by the appropriate city agencies having jurisdiction and are installed in a structure or building erected, converted, substantially rehabilitated, or completely vacated after July fourteenth, nineteen hundred sixty-seven.

§27-2032 **Gas-fueled or electric heaters.**

- a. Gas-fueled or electric space or water heaters, where permitted by this article as an alternative to a central supply of heat or hot water, shall be governed by the provisions of this section.
- b. The capacity, number and location of such heaters shall be such as to furnish the same standard of heat or hot water supply, as the case may be, as is required to be furnished from a central heat or hot water system.
- c. Electric heaters shall be approved by Underwriters Laboratories, Inc. and shall comply with applicable provisions of the building code and the multiple dwelling law.
- d. Gas-fueled heaters shall comply with article nine of this subchapter and with applicable provisions of the building code and the multiple dwelling law, but any such heater lawfully in existence on July fourteenth, nineteen hundred sixty-seven which does not comply with subdivision b of section 27-2034 of article nine of this subchapter shall comply with such section by July fourteenth, nineteen hundred seventy-eight. No person shall cause or permit to be occupied for sleeping purposes any room containing such a non-complying heater. Any heater installed in replacement of any such non-complying heater shall comply with all provisions of article nine of this subchapter.
- e. The owner shall not, unless otherwise agreed between owner and tenant, be required to pay for the gas or electricity used by such heaters.
- f. Notwithstanding any provision of prior law, it shall be the duty of the owner to keep each such heater in good repair and good operating condition, regardless of the identity of the person originally owning or installing the heater.
- g. The owner shall instruct each successive tenant of an apartment in which such heaters are installed as to safe and proper method of using and operating such heaters.
- h. The department may make and enforce regulations supplementary to the provisions of this section and article nine of this subchapter to secure an adequate supply of heat and hot water and to protect the health and safety of tenants.

§27-2033 **Access to boiler room.**

- a. The owner of every multiple dwelling shall have the area, where the building's heating system is located, readily accessible to members of the department to make inspection pursuant to this chapter. In the event such area is kept under lock, a key shall be kept on the premises at all times with such person as the owner shall designate; however, if there is a person residing on the premises who performs janitorial services, such person shall hold the key. The owner shall post a notice in a form approved by the department naming such designated person and his or her location.

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- b. Multiple dwellings owned and operated by the New York city housing authority shall be exempt from the requirements of this section.

ARTICLE 9
GAS APPLIANCES

§27–2034 Space and water heaters.

- a. Any gas-fueled space or water heater used in any dwelling unit, in addition to the provisions of section 27-2032 of article eight of this subchapter, shall comply with the provisions of this section and with the regulations of the department.
- b. No person shall install or maintain in any dwelling unit a gas fuel-fired space or water heater unless the heater obtains combustion air directly from the outside of the building. In the alternative, a gas fuel-fired water heater that does not obtain its combustion air directly from the outside of the building may be installed, provided that such installation is in compliance with the conditions of subdivision i of section P107.26 of reference standard RS-16 of the building code.
- c. No person shall install or maintain a gas-fueled water heater in a room occupied for sleeping purposes, or cause or permit to be occupied for sleeping purposes any room in which a gas-fueled heater is installed.
- d. No person shall install or maintain in any dwelling unit a gas-fueled water heater so designed and arranged that it heats water in pipe coils placed at a distance from the hot water storage tank.
- e. Every gas fuel-fired space or water heater shall be (i) currently listed by an independent laboratory acceptable to the commissioner of buildings, (ii) approved by the department of buildings and (iii) approved by the department of health and mental hygiene. All accessories or control devices for use with such heaters shall have proof of such listing.
- f. Each heater shall be equipped with an effective device which will automatically shut off the gas supply to the heater if its pilot light or other constantly burning flame is extinguished, or in the event of an interruption of the gas supply to the heater, and will not permit the heater to be relighted unless such shut-off device is first reset manually.
- g. Each heater shall be rigidly connected to the gas piping supplying gas in the premises.
- h. Each heater shall be connected to a flue or outlet pipe conforming to the provisions of the building code. No heater shall be vented to an inner court. A flue or outlet pipe may be extended to an inner court if the flue or pipe is connected with an outside chimney which conforms with the provisions of the building code.

§27–2035 Gas-fired refrigerators.

- a. It shall be unlawful to install or furnish for use or to use, operate, or permit to be used or operated in a dwelling any gas-fired refrigerator:
 - (1) Which utilizes a water-cooled gas-fired refrigerator unit; or
 - (2) Which is not equipped with a flue and flue components wholly composed of a non-metallic material or of molybdenum stainless steel or aluminum; or
 - (3) Which is not equipped with a fixed mounted dust incinerating type of gas burner, gas pressure regulator, gas supply filter, and thermostat; or
 - (4) Which does not have a properly operating automatic regulating or safety device of a type installed or specified by the manufacturer, or which has a clogged flue, or an improperly

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operating burner, or which gives off excessive heat or odors or discharges carbon monoxide or is otherwise defective.

- b. Inspectors or other duly authorized representatives of the department may seal any refrigerator which is in violation of this section. Any refrigerator so sealed shall not be installed, used, or operated without the written permission of the department.

§27-2036 **Self-inspection of gas appliances.** The owner shall cause an inspection to be made by a licensed plumber, utility company, or other qualified gas service person of each gas-fueled space heater and, in an old law tenement or in any rooming unit, of each gas appliance, at least once a year. The findings on inspection shall be recorded on forms approved by the department and shall be kept on file by the owner for a period of one year. Such inspection reports shall be submitted to the department upon request but shall not be subject to inspection by others or to subpoena, or used in or as the basis of prosecution for the existence of a defect on the date of inspection.

ARTICLE 10 ARTIFICIAL LIGHTING

§27-2037 **Duty to provide electric lighting equipment in all dwellings.** The owner shall equip every dwelling for lighting by electricity. Such owner shall provide and maintain light fixtures to provide lighting for all public parts in a dwelling, including the means of egress, for every room, water closet compartment and bathroom in every dwelling unit, and for every water closet without the dwelling unit. In addition to required light fixtures, the owner shall install and maintain such receptacle outlets as may be required by the electrical code. Except as otherwise provided in this code or in the electrical code, the owner may substitute an additional receptacle outlet for a required light fixture in living rooms other than kitchens.

§27-2038 **Electric lighting fixtures required in certain public parts of dwellings.**

- a. Subject to any stricter minimum lighting requirement that may be applicable pursuant to the multiple dwelling law, in every multiple dwelling and tenant-occupied two-family dwelling light from electric lighting fixtures and daylight shall in the aggregate provide an illumination level of no less than one foot-candle, measured at the floor level, throughout all public hallways, stairs, fire stairs, and fire towers at all times of the day and night and throughout common laundry rooms at all times that such rooms are occupied. The owner shall install, position, operate and maintain sufficient electric lighting fixtures to assure that the required illumination level is maintained.
- b. The owner of a multiple dwelling shall keep electric lighting fixtures on continuously, during the day as well as at night, in every fire stair and fire tower and in every stairway and public hall with no window opening on a street, court, yard, space above a setback or shaft supplying sufficient illumination to maintain the required illumination level during the daylight hours.
- c. Photosensor lighting controls may be used to control electric lighting fixtures in public halls and stairs according to the amount of daylight available provided that the level of illumination required by subdivision a of this section is maintained at all times and the switch controllers are equipped for fail-safe operation ensuring that if the sensor or control fails, the lighting levels will be at the levels required by subdivision a of this section.

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- d. Automatic, occupant sensor or photosensor lighting controls may be used to operate lighting fixtures in common laundry rooms, provided that all of the following conditions are satisfied:
 - 1. the switch controllers are equipped for fail-safe operation ensuring that if the sensor or control fails, the lighting levels will be at the levels required by subdivision a of this section;
 - 2. for occupant sensors, the illumination times are set for a maximum thirty minute duration; and
 - 3. for occupant sensors, the sensor is activated by any occupant movement in the area served by the lighting fixtures.
- e. For the purposes of this section the term "photosensor" means a device that detects the presence of visible light and the term "occupant sensor" means a device that detects the presence or absence of people within an area and causes lighting to be regulated accordingly. Apartment may require fixtures to be so located, and additional fixtures to be installed, in order to assure that every part of every public hall, stair, fire stair or fire tower is adequately lighted.

§27-2039 Lighting to be provided at night; owner's responsibility. [Repealed]

§27-2040 Lights near entrance ways and in yards and courts of multiple dwellings.

- a. The owner of a multiple dwelling shall install and maintain one or more lights at or near the outside of the front entrance way of the building which shall in the aggregate provide not less than one hundred watts incandescent illumination or its equivalent for a building with a frontage up to twenty-two feet, and two hundred watts incandescent illumination or its equivalent or a building with a frontage in excess of twenty-two feet. In the case of a multiple dwelling with a frontage in excess of twenty-two feet and front entrance doors with a combined width in excess of five feet, the owners shall install at least two lights, one on each side of the entrance way, with an aggregate illumination of three hundred watts incandescent illumination or its equivalent. If the minimum level of illumination is maintained, the owner may determine details of location, design and installation of lighting fixtures, subject, however, to regulations of the department with respect to the maximum height above or distance from the entrance way of such fixtures, and the electrical and other safety of their installation. The lights required by this subdivision shall be kept burning from sunset on each day to sunrise on the day following.
- b. The owner of a multiple dwelling shall install and maintain in every yard and court one or more lights of at least one hundred watts of incandescent illumination or its equivalent, in such locations as the department may prescribe. The lights required by this subdivision shall be kept burning from sunset on each day to sunrise on the day following.

ARTICLE 11
PROTECTIVE DEVICES AND FIRE PROTECTION

§27-2041 Peepholes. In every dwelling the owner shall provide and maintain a peephole in the entrance door of each dwelling unit. Such peephole shall be located, as prescribed by the department, in such a place that the person in each dwelling unit may view from the inside any person immediately outside the entrance door. However, such peephole need not be installed in any tenant-occupied one- or two-family home where it is possible to see from the inside any person immediately outside the entrance door. This section shall not apply to hotels, apartment

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hotels, college or school dormitories, or owner-occupied dwelling units in one- and two-family homes.

§27-2042 **Mirrors in elevators.** The owner of a multiple dwelling in which there are one or more self-service elevators shall affix and maintain in each such elevator a mirror which enables persons to view its interior before entering the same. The mirror shall meet such requirements as the department shall by regulation prescribe.

§27-2043 **Locks in dwelling unit doors.**

- a. The owner of a dwelling shall provide a key lock in the entrance door to each dwelling unit and at least one key. In a class A multiple dwelling such door shall be equipped with a heavy duty latch set and a heavy duty dead bolt operable by a key from the outside and a thumb-turn from the inside.
- b. Each dwelling unit entrance door in a class A multiple dwelling shall also be equipped with a chain door guard so as to permit partial opening of the door.

§27-2043.1 **Window guards.**

- a. An owner of a multiple dwelling and an owner of a dwelling unit in a multiple dwelling owned as a condominium shall provide, install and maintain a window guard, in accordance with specifications established by the department of health and mental hygiene, on each window of each dwelling unit in which a child ten years of age or under resides, and on the windows, if any, in the public areas of a multiple dwelling in which such a child resides.
- b. Subdivision a of this section shall not apply to a window that gives access to a fire escape or to a window that is a required means of egress from a dwelling unit on the first floor of a multiple dwelling.
- c. No tenant or occupant of a dwelling unit, or other person, shall obstruct or interfere with the installation or maintenance of a window guard as required by subdivision a of this section nor shall any person remove such window guard.
- d. No owner of a multiple dwelling and no owner of a dwelling unit in a multiple dwelling owned as a condominium shall refuse a written request of a tenant or occupant of a dwelling unit to provide, install and maintain a window guard, in accordance with specifications established by the department of health and mental hygiene, regardless of whether such provision, installation and maintenance is required pursuant to subdivision a of this section, except that this subdivision shall not apply to a window that gives access to a fire escape or to a window that is a required means of egress from a dwelling unit on the first floor of a multiple dwelling.
- e. Any owner required to provide, install and maintain a window guard pursuant to subdivision a or d of this section who fails to provide, install or maintain a window guard shall be liable for a class C immediately hazardous violation. Notwithstanding any other provision of law to the contrary, the time within which to correct such violation shall be twenty-one days after service of the notice of violation.
- f. Notwithstanding any other provision of law to the contrary, the department shall be the sole agency of the city authorized to seek a monetary penalty from an owner who is required to provide, install and maintain a window guard for failure to provide, install or maintain such window guard. Nothing in this section shall limit the authority of the department of health and mental hygiene to investigate a fall from any window or to issue an order to correct any condition that such department determines contributed to such fall.

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§27-2044 Fire protection in certain old law tenements.

- a. In every old law tenement which is less than four stories in height:
 - (1) Every door opening into any entrance hall or stair, or into any public hall connected therewith, shall be self-closing; every glazed opening or glazed panel in such a door shall be glazed with wire glass, and every transom opening upon any public hall shall be glazed with wire glass firmly secured in a closed position; and
 - (2) Every interior sash, or opening other than a door, in the walls or partitions of any such hall, and every window in any such hall not opening to the outer air, shall be removed and the openings closed up and fire-retarded; and
 - (3) The ceiling of the cellar, or if there is no cellar, of the basement or other lowest story, shall be fire-retarded unless such ceiling already has been plastered or covered in a manner satisfactory to the department with plasterboard or gypsum board at least one-half inch in thickness.
- b. In every old law tenement which is four stories or more in height:
 - (1) On all stories above the third story, every apartment door opening into any stair or into any public hall connected therewith, unless such stair or public hall is protected by an approved sprinkler system shall have a fire resistance rating of at least one hour. Existing door frames in good condition may be retained. All such doors shall comply with this requirement, not later than November second, nineteen hundred seventy-three.
 - (2) For all stories below the fourth story, any application for an alteration permit for alterations to be made in an apartment below the fourth story shall include the provision that every door of such apartment opening into any entrance hall, stair or into any public hall connected therewith, unless such entrance hall, stair or public hall is protected by an approved sprinkler system, shall have a fire resistance rating of at least one hour. Existing door frames in good condition may be retained.
 - (3) Where apartment doors having a fire resistance rating of at least one hour are required, every transom opening upon any entrance hall, stair or public hall connected therewith shall be sealed and fire retarded. All other transoms opening upon any entrance hall, stair or public hall connected therewith shall be glazed with wire glass and permanently sealed in a closed position.
 - (4) All doors opening into any entrance hall, stair or into any public hall connected therewith shall be self-closing; every glazed opening or glazed panel in such a door shall be glazed with wire glass.

§27-2045 Duties of owner and occupant with respect to installation and maintenance of smoke detecting devices in class A multiple dwellings.

- a. It shall be the duty of the owner of a class A multiple dwelling which is required to be equipped with smoke detecting devices pursuant to section 907.2 of the New York city building code or sections 27-978, 27-979, 27-980 and 27-981 of the 1968 building code to:
 - (1) provide and install one or more approved and operational smoke detecting devices in each dwelling unit and replace such devices in accordance with article 312 of chapter 3 of title 28 of the administrative code of the city of New York. Such devices shall be installed at locations specified in reference standard 17-12 of the 1968 building code or section 907.2.10 of the New York city building code, as applicable.
 - (2) post a notice in a form approved by the commissioner in a common area of the building informing the occupants of such building (i) that the owner is required by law to install one or more approved and operational smoke detecting devices in each dwelling unit in

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the building and to periodically replace such devices upon the expiration of their useful life in accordance with article 312 of chapter 3 of title 28 of the administrative code of the city of New York and (ii) that each occupant is responsible for the maintenance and repair of such devices and for replacing any or all such devices which are stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit with a device meeting the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York.

- (3) replace any smoke detecting device which has been stolen, removed, missing or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant prior to the commencement of a new occupancy of a dwelling unit with a device meeting the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York.
 - (4) replace within thirty calendar days after the receipt of written notice any such device which becomes inoperable within one year of the installation of such device due to a defect in the manufacture of such device and through no fault of the occupant of the dwelling unit.
 - (5) keep such records as the commissioner shall prescribe relating to the installation and maintenance of smoke detecting devices in the building, including records showing that such devices meet the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York, and make such records available to the commissioner upon request.
- b. Notwithstanding the provisions of subdivision a of section 27-2005 of article one of this subchapter and subdivision c of section 27-2006 of article one of this subchapter, it shall be the sole duty of the occupant of each dwelling unit in a class A multiple dwelling in which a smoke detecting device has been provided and installed by the owner pursuant to the provisions of section 907.2 of the New York city building code or sections 27-978, 27-979, 27-980 and 27-981 of the 1968 building code to:
- (1) keep and maintain such device in good repair; and
 - (2) replace any and all devices which are either stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit with a device meeting the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York.
- c. Except as otherwise provided in paragraphs three and four of subdivision a of this section and article 312 of chapter 3 of title 28 of the administrative code of the city of New York, an owner of a class A multiple dwelling who has provided and installed a smoke detecting device in a dwelling unit pursuant to this section shall not be required to keep and maintain such device in good repair or to replace any such device which is stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit.
- d. The occupant of a dwelling unit in which a battery-operated smoke detecting device is provided and installed pursuant to this section shall reimburse the owner a maximum of twenty-five dollars, or a maximum of fifty dollars where a combined smoke and carbon monoxide detecting device is installed, for the cost of providing and installing each such device. The occupant shall have one year from the date of installation to make such reimbursement.
- e. For the purposes of this section, the term "class A" multiple dwelling shall include garden-type maisonette dwellings constructed before April eighteenth, nineteen hundred fifty-four

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and the term "garden-type maisonette dwellings" shall be defined as any dwelling project consisting of a series of dwelling units which together and in their aggregate are arranged or designed to provide three or more apartments, and are provided as a group collectively with all essential services such as, but not limited to, house sewers and heat, and which are operated as a unit under single ownership, notwithstanding that certificates of occupancy were issued for portions thereof as private dwellings.

§27-2046 Duties of owner with respect to installation and maintenance of smoke detecting devices in class B multiple dwellings. It shall be the duty of the owner of a class B multiple dwelling which is required to be equipped with smoke detecting devices pursuant to section 907.2 of the New York city building code or sections 27-978, 27-979, 27-980 and 27-981 of the 1968 building code to:

- (1) provide and install one or more approved and operational smoke detecting devices in each dwelling unit or, in the alternative, provide and install a line-operated zoned smoke detecting system with central annunciation and central office tie-in for all public corridors and public spaces, pursuant to rules and regulations promulgated by the commissioner of buildings.
- (2) keep and maintain smoke detecting devices in good repair and replace such devices in accordance with article 312 of chapter 3 of title 28 of the administrative code of the city of New York.
- (3) replace any smoke detecting device which has been stolen, removed, missing or rendered inoperable prior to the commencement of a new occupancy of a dwelling unit, in accordance with article 312 of chapter 3 of title 28 of the administrative code of the city of New York.
- (4) keep such records as the commissioner shall prescribe relating to the installation and maintenance of smoke detecting devices in each dwelling unit, including records showing that such devices meet the requirements of article 312 of chapter 3 of title 28 of the administrative code of the city of New York, and make such records available to the commissioner upon request.

§27-2046.1 Duties of owner and occupant with respect to installation and maintenance of carbon monoxide detecting devices in class A multiple dwellings and private dwellings.

- a. As used in paragraphs two through six of subdivision b of this section, the term "private dwelling" shall mean a dwelling unit in a one-family or two-family home which is occupied by a person or persons other than the owner of such unit or the owner's family.
- b. It shall be the duty of the owner of a class A multiple dwelling and a private dwelling which is required to be equipped with one or more carbon monoxide detecting devices pursuant to section 908.7 of the New York city building code or sections 27-981.1, 27-981.2 and 27-981.3 of the 1968 building code to:
 - (1) provide and install one or more approved and operational carbon monoxide detecting devices in each dwelling unit and replace such devices as necessary in accordance with article 12 of chapter 3 of title 28 of the administrative code
 - (2) post a notice in a form approved by the commissioner in a common area of a Class A multiple dwelling and otherwise provide such notice to the occupants of a private dwelling informing the occupants of such dwelling that the owner is required by law to install one or more approved and operational carbon monoxide detecting devices in each dwelling unit in the dwelling and to periodically replace such devices upon the expiration of their useful life, provided that an owner may choose to post or otherwise

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- provide a single notice that complies with this provision as well as the provisions of paragraph two of subdivision a of section 27–2045 of this article;
- (3) replace any carbon monoxide detecting device which has been stolen, removed, found missing or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant prior to the commencement of a new occupancy of a dwelling unit;
 - (4) replace within thirty calendar days after the receipt of written notice any such device which becomes inoperable within one year of the installation of such device due to a defect in the manufacture of such device and through no fault of the occupant of the dwelling unit;
 - (5) provide written information regarding the testing and maintenance of carbon monoxide detecting devices to at least one adult occupant of each dwelling unit including, but not limited to, general information concerning carbon monoxide poisoning and what to do if a carbon monoxide detecting device goes off; the useful life of the device and the owner's duty to replace such device pursuant to article 12 of chapter 3 of title 28 of the administrative code. Such information may include material that is distributed by the manufacturer, material prepared by the department of buildings or material approved by the department of buildings; and
 - (6) keep such records as the commissioner shall prescribe relating to the installation and maintenance of carbon monoxide detecting devices in the building, including the manufacturers' suggested useful life of devices, and make such records available to the commissioner upon request.
- c. Notwithstanding the provisions of subdivision a of section 27–2005 and subdivision c of section 27–2006 of this chapter, it shall be the sole duty of the occupant of each dwelling unit in a class A multiple dwelling and the occupant of a dwelling unit in a private dwelling in which a carbon monoxide detecting device has been provided and installed by the owner pursuant to the provisions of section 908.7 of the New York city building code, sections 27–981.1, 27–981.2 and 27–981.3 of the 1968 building code or article 12 of chapter 3 of title 28 of the administrative code to:
- (1) keep and maintain such device in good repair; and
 - (2) replace any device which is either stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit.
- d. Except as otherwise provided in paragraphs three and four of subdivision a of this section, an owner of a dwelling who has provided and installed a carbon monoxide detecting device in a dwelling unit pursuant to this section shall not be required to keep and maintain such device in good repair or to replace any such device which is stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit.
- e. It shall be unlawful for any person to tamper with or render inoperable a carbon monoxide detecting device that is required under article seven of subchapter seventeen of chapter one of this title, except for replacing the batteries or for other maintenance purposes.
- f. The occupant of a dwelling unit in which a carbon monoxide detecting device is newly installed or installed to replace a device that has exceeded the manufacturers' suggested useful life or as a result of such occupant's failure to maintain such device or where such device has been lost or damaged by such occupant, shall reimburse the owner in the

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amount of twenty-five dollars for the cost of such work. Such occupant shall have one year from the date of installation to make such reimbursement.

- g. The provisions of this section may be enforced by the department, the department of buildings, the fire department and the department of health and mental hygiene.

§27–2046.2 Duties of owner and occupant with respect to installation and maintenance of carbon monoxide detecting devices in class B multiple dwellings.

- a. It shall be the duty of the owner of a class B multiple dwelling which is required to be equipped with one or more carbon monoxide detecting devices pursuant to section 908.7 of the New York city building code or sections 27–981.1, 27–981.2 and 27–981.3 of the 1968 building code to:

- (1) provide and install one or more approved and operational carbon monoxide detecting devices in each dwelling unit or in the alternative, provide and install a line-operated zoned carbon monoxide detecting system with central annunciation and central office tie-in for all public corridors and public spaces, pursuant to rules promulgated by the commissioner in consultation with the department of buildings and the fire department;
- (2) keep and maintain carbon monoxide detecting devices in good repair and replace such devices when necessary in accordance with article 12 of chapter 3 of title 28 of the administrative code;
- (3) replace any carbon monoxide detecting device which has been stolen, removed, found missing or rendered inoperable prior to the commencement of a new occupancy of a dwelling unit;
- (4) keep such records as the commissioner shall prescribe relating to the installation and maintenance of carbon monoxide detecting devices in the building, including the manufacturers' suggested useful life of devices, and make such records available to the commissioner upon request.

- b. It shall be unlawful for any person to tamper with or render inoperable a carbon monoxide detecting device that is required under article seven of subchapter seventeen of chapter one of this title, except for replacing the batteries or for other maintenance purposes.

- c. The provisions of this section may be enforced by the department, the department of buildings, the fire department and the department of health and mental hygiene.

§27–2046.3 Safety devices for certain electrical outlets required.

- a. The owner of a multiple dwelling shall install and maintain protective caps, covers or other safety devices over electrical outlets in the public parts of such multiple dwelling, except that (1) such devices shall not be required in public parts used exclusively for mechanical equipment or storage purposes, and (2) such devices shall not be required for electrical outlets that are listed tamper-resistant receptacles in accordance with the New York city electrical code.
- b. An owner who fails to install or maintain protective caps, covers or other safety devices in accordance with this section shall be liable for a class A violation.

§27–2046.4 Stovetop protection.

- a. An owner of a unit in a multiple dwelling, other than a dwelling unit in a multiple dwelling owned as a condominium or cooperative and used as the primary residence of such owner, shall provide stove knob covers for each knob located on the front of each gas-powered stove to tenants in each dwelling unit in which the owner knows or

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reasonably should know a child under six years of age resides, except where such owner has documented proof that there is no available stove knob cover that is compatible with the knobs on such stove. Such stove knob covers shall be made available within thirty days of such owner providing the notice required in subdivision b of this section unless such owner has previously made such stove knob covers available to the tenant and the tenant has not requested a replacement.

- b.
 - 1. Such owner shall provide an annual notice to each tenant of a unit regarding the owner's obligation to provide stove knob covers pursuant to subdivision a of this section. Such notice shall inform the tenant of his or her option to refuse stove knob covers.
 - 2. Upon being provided with such notice, a tenant may notify such owner, in writing, that such tenant refuses stove knob covers. If the tenant does not notify the owner, in writing, that the tenant refuses stove knob covers, the owner will make the stove knob covers available to the tenant pursuant to subdivision a of this section.
 - 3. An owner will keep a record of: (i) written notifications of refusal of stove knob covers received from a tenant of a dwelling unit, (ii) the owner's attempts to provide stove knob covers to tenants pursuant to subdivision a of this section, (iii) units for which stove knob covers were made available, and (iv) tenants who have requested stove knob covers.
- c. No owner shall refuse a written request of a tenant of such dwelling unit to provide stove knob covers, regardless of whether making such covers available is required pursuant to this section.
- d. Any owner who is required to provide stove knob covers pursuant to this section who fails to do so shall be liable for a class B hazardous violation, provided that it shall be an exception to a violation where (i) the owner provides documented proof that there is no available stove knob cover that is compatible with the knobs on such stove or (ii) the owner has already fulfilled two requests for replacement stove knob covers within the previous year.

ARTICLE 12 MISCELLANEOUS SERVICES AND FACILITIES

§27–2047 **Mail service.** The owner of a multiple dwelling shall either:

- (1) Arrange for mail to be delivered to himself or herself, his or her agents, or employees for prompt distribution to the occupants; or
- (2) Provide and maintain approved mail receptacles and directories of persons living in the dwelling, as provided by federal law and by the regulations of the post office department.

§27–2048 **Floor signs.** The owner of a multiple dwelling more than two stories in height shall post and maintain a sign, of sufficient size to be readily seen, which states the number of the floor. Such signs shall be located in the public hall near the stairs and elevator, and within any stair enclosure.

§27–2049 **Street numbers.** The owner of a dwelling shall post and maintain street numbers on the dwelling, which are plainly visible from the sidewalk in front of the dwelling, in accordance

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with section 3-505 of the administrative code and the rules and regulations issued by the borough presidents thereunder.

§27–2050 Inspection of required sprinklers in converted dwellings and dwellings used for single room occupancy. [Repealed]

§27–2051 Maintenance of rooming units. A manager, who may be the owner, shall reside in every rooming house or multiple dwelling used for single room occupancy, except that two adjoining or connected rooming houses may be under the same supervision. The manager shall be responsible for the operation and maintenance of the dwelling.

§27–2051.1 Temporary posting of emergency information. Prior to the expectant arrival of a weather emergency, a natural disaster event or after being informed about a utility outage which is expected to last for more than twenty-four hours, the owner of a residential dwelling where at least one dwelling unit is not occupied by such owner shall post the following information in common areas of the residential dwelling on signs of sufficient size to be seen: (i) whether the building is located in a hurricane evacuation zone as defined by the office of emergency management and if applicable, which zone the building is located in; (ii) the address of the nearest designated evacuation center; (iii) when a person should contact 911 and 311 during a weather emergency, a natural disaster event or the utility outage; (iv) whether during the utility outage, services such as potable water, corridor, egress, and common area lighting, fire safety and fire protection, elevators, charging locations for cellular telephones, domestic hot water, or heating and cooling will be provided; (v) contact information for building personnel in the event of an emergency, including email addresses, phone numbers and other methods of communication; (vi) instructions on removing furniture from rooftops and balconies during high wind events and; (vii) for buildings that utilize pumps, instructions on reducing water consumption during the utility outage. Such signs shall be updated by the owner of the residential building as needed and must be removed after the passage of the weather emergency, the natural disaster event or the restoration of utility services. The department shall determine the form of such signs including publishing a template that may be used by residential buildings for the purposes of this section.

ARTICLE 13
JANITORIAL SERVICES

§27–2052 Definitions. When used in this article:

- (a) Janitorial services means: Cleaning and maintenance, including the making of minor repairs; the furnishing of heat and hot water, where supplied from a central source; the removal of garbage, refuse, ashes and wastes from the premises; and the removal of snow, ice, dirt and other matter from the sidewalk and gutter.
- (b) Janitor means a person employed to perform janitorial services.

§27–2053 Obligations of owner.

- a. The owner of a multiple dwelling shall provide adequate janitorial services.
- b. In a multiple dwelling of nine or more dwelling units, the owner shall either:
 - (1) Perform the janitorial services himself or herself, if he or she is a resident owner; or
 - (2) Provide a janitor; or
 - (3) Provide for janitorial services to be performed on a twenty-four-hour-a-day basis in a manner approved by the department.

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- c. The owner of a multiple dwelling or his or her managing agent in control shall post and maintain in such dwelling a legible sign, conspicuously displayed, containing the janitor's name, address (including apartment number) and telephone number. A new identification sign shall be posted and maintained within five days following a change of janitor.

§27-2054 Residence of person performing janitorial services; limitation on number of dwelling units served. The person who performs janitorial services for a multiple dwelling of nine or more dwelling units (other than where janitorial services are performed on a twenty-four-hour-a-day basis under paragraph three of subdivision b of section 27-2053 of this article) shall reside in or within a distance of one block or two hundred feet from the dwelling, whichever is greater, unless the owner resides in the multiple dwelling. Where two or three multiple dwellings are connected or adjoining, it shall be sufficient, however, that the person who performs janitorial services resides in one of these, but no person who performs janitorial services for more than one multiple dwelling may service more than sixty-five dwelling units. Regardless of residence the janitor must have a telephone where the janitor may reasonably be expected to be reached.

§27-2055 Certification of competency.

- a. Except as provided in subdivision b of this section, the owner who is required to employ a janitor shall certify in writing to the department that such owner's janitor is competent to perform janitorial services required to be performed by this article in a competent fashion and is capable of operating the incinerator and the furnace, boiler and other machinery that provides central heat and hot water. The owner shall submit a new certificate of the janitor's competency to the department no later than sixty days after hiring a new janitor.
- b. No such certification shall be required concerning a janitor who has satisfactorily completed a course of not less than fifteen hours given or approved by the department of buildings in the basic skills required for the performance of janitorial services. Such course should include, but need not be limited to, instruction on operation of the central heating plant; replacement of the smoke pipe from the furnace to the chimney; and the making of necessary minor repairs, such as replacement of washers and water faucets. Courses approved by the department of buildings may be offered by a school, association, labor union or other public agency.
- c. This section shall become effective on June thirteenth, nineteen hundred sixty-eight.

§27-2056 Exemption of New York city housing authority.

The provisions of this article shall not be applicable to the New York city housing authority.

ARTICLE 14
LEAD POISONING PREVENTION AND CONTROL

§27-2056.1 Statement of findings and purposes. The council finds that lead poisoning from paint containing lead is a preventable childhood disease and a public health crisis. The council further finds that the hazard in dwellings that may occur from paint containing lead is subject to many factors, such as the age of a building and its maintenance. The Council also finds and declares that City government must focus on primary prevention as the essential tool to combat childhood lead poisoning and to achieve the goal of preventing children from suffering the adverse health and other effects of exposure to lead-based paint. The pursuit of primary prevention, which means eliminating lead hazards before children are exposed, has

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been recommended by the United States Centers for Disease Control and Prevention and promoted by leading experts in the field as a critical course of action to protect the health of young children. The Council, therefore, declares that resources must be directed to primary prevention, including identifying children who are most at risk.

The council recognizes that it cannot legislate a single maintenance standard for all dwellings to eliminate this hazard. Instead, the council by enacting this article makes it the responsibility of every owner of a multiple dwelling to investigate dwelling units for lead-based paint hazards and to address such hazards on a case-by-case basis as the conditions may warrant, taking such actions as are necessary to prevent a child from becoming lead poisoned. Having established this responsibility, the council finds that sufficient information exists to guide owners in making determinations about the existence of lead-based paint hazards. See, e.g., United States environmental protection agency, "Identification of Dangerous Levels of Lead; Final Rule" Federal Register, Vol. 66, No. 4 (January 5, 2001); United States department of housing and urban development, "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (June 1995, revised 1997).

The New York city department of health and mental hygiene has reported for the year 2001 that among children tested, 5,638 were newly identified with elevated blood lead levels of 10 micrograms per deciliter or above. The New York city department of health and mental hygiene has reported for the year 2001 that among children tested, 653 were newly identified at or above the department's environmental intervention blood lead level, which is a blood lead level equal to or exceeding 20 micrograms per deciliter in a single test or two reported blood lead levels between 15 and 19 micrograms per deciliter at least three months apart, and has also reported an overall incidence of 931 children tested with blood lead levels equal to or exceeding 20 micrograms per deciliter. When a child is identified with environmental intervention blood lead levels, the city is obligated to investigate potential sources of the lead poisoning, incurring the expense of an environmental investigation and often times also incurring the expense of medical treatment and remedial education, if necessary. The council finds that these blood lead levels among New York city children constitute a severe health crisis and has established as its goal the elimination of childhood lead poisoning by the year 2010.

In addition, the department of health and mental hygiene has reported for the year 2001 that only 29% of children in New York city are tested both at age one and age two for the disease of lead poisoning even though the testing of all children at age one and age two is mandatory under state law. The council finds that improved screening among these children is critical since children at these ages are at greatest risk for lead poisoning. The council declares that it is reasonable and necessary to increase the rate of blood-lead testing. This local law requires the department of health and mental hygiene to report to the council on progress toward increasing screening rates and reducing the incidence rates of children newly identified with elevated blood lead levels.

The council further finds that the administration and enforcement of the City's lead poisoning prevention programs can be better coordinated. While it is intended that the department of housing preservation and development remain the agency responsible for the implementation and enforcement of this article, it is also intended that the department of health and mental hygiene shall have a significant role in the promulgation and interpretation of rules and in the development of necessary procedures pursuant to this article.

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§27–2056.2 **Definitions.** Whenever used in this article the following terms shall have the following meanings:

- (1) "Chewable surface" shall mean a protruding interior window sill in a dwelling unit in a multiple dwelling where a child of applicable age resides and which is readily accessible to such child. "Chewable surface" shall also mean any other type of interior edge or protrusion in a dwelling unit in a multiple dwelling, such as a rail or stair, where there is evidence that such other edge or protrusion has been chewed or where an occupant has notified the owner that a child of applicable age who resides in that multiple dwelling has mouthed or chewed such edge or protrusion.
- (2) "Common area" shall mean a portion of a multiple dwelling that is not within a dwelling unit and is regularly used by occupants for access to and egress from any dwelling unit within such multiple dwelling.
- (3) "Deteriorated subsurface" shall mean an unstable or unsound painted subsurface, an indication of which can be observed through a visual inspection, including, but not limited to, rotted or decayed wood, or wood or plaster that has been subject to moisture or disturbance.
- (4) "Friction Surface" shall mean any painted surface that touches or is in contact with another surface, such that the two surfaces are capable of relative motion and abrade, scrape, or bind when in relative motion. Friction surfaces shall include, but not be limited to, window frames and jambs, doors, and hinges.
- (5) "Impact Surface" shall mean any interior painted surface that shows evidence, such as marking, denting, or chipping, that it is subject to damage by repeated sudden force, such as certain parts of door frames, moldings, or baseboards.
- (6) "Lead-based paint hazard" shall mean any condition in a dwelling or dwelling unit that causes exposure to lead from lead-contaminated dust, from lead-based paint that is peeling, or from lead-based paint that is present on chewable surfaces, deteriorated subsurfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.
- (7) "Lead-based paint" shall mean paint or other similar surface coating material containing 1.0 milligrams of lead per square centimeter or greater, as determined by laboratory analysis, or by an x-ray fluorescence analyzer. If an x-ray fluorescence analyzer is used, readings shall be corrected for substrate bias when necessary as specified by the performance characteristic sheets released by the United States environmental protection agency and the United States department of housing and urban development for the specific x-ray fluorescence analyzer used. X-ray fluorescence readings shall be classified as positive, negative or inconclusive in accordance with the United States department of housing and urban development "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (June 1995, revised 1997) and the performance characteristic sheets released by the United States environmental protection agency and the United States department of housing and urban development for the specific x-ray fluorescence analyzer used. X-ray fluorescence readings that fall within the inconclusive zone, as determined by the performance characteristic sheets, shall be confirmed by laboratory analysis of paint chips, results shall be reported in milligrams of lead per square centimeter and the measure of such laboratory analysis shall be definitive. If laboratory analysis is used to determine lead content, results shall be reported in milligrams of lead per square centimeter. Where the surface area of a paint chip sample

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cannot be accurately measured or if an accurately measured paint chip sample cannot be removed, a laboratory analysis may be reported in percent by weight. In such case, lead-based paint shall mean any paint or other similar surface-coating material containing more than 0.5% of metallic lead, based on the non-volatile content of the paint or other similar surface-coating material.

- (8) "Lead-contaminated dust" shall mean dust containing lead at a mass per area concentration of 40 or more micrograms per square foot on a floor, 250 or more micrograms per square foot on window sills, and 400 or more micrograms per square foot on window wells, or such more stringent standards as may be adopted by the department of health and mental hygiene.
- (9) "Lead-contaminated dust clearance test" shall mean a test for lead-contaminated dust on floors, window wells, and window sills in a dwelling, that is made in accordance with section 27-2056.11 of this article.
- (10) "Peeling" shall mean that the paint or other surface-coating material is curling, cracking, scaling, flaking, blistering, chipping, chalking or loose in any manner, such that a space or pocket of air is behind a portion thereof or such that the paint is not completely adhered to the underlying surface.
- (11) "Remediation" or "Remediate" shall mean the reduction or elimination of a lead-based paint hazard through the wet scraping and repainting, removal, encapsulation, enclosure, or replacement of lead-based paint, or other method approved by the commissioner of health and mental hygiene.
- (12) "Rule" or "rules" shall mean a rule or rules promulgated pursuant to section 1043 of the New York city charter.
- (13) "Turnover" shall mean the occupancy of a dwelling unit subsequent to the termination of a tenancy and the vacatur by a prior tenant of such dwelling unit.
- (14) "Underlying defect" shall mean a physical condition in a dwelling or dwelling unit that is causing or has caused paint to peel or a painted surface to deteriorate or fail, such as a structural or plumbing failure that allows water to intrude into a dwelling or dwelling unit.
- (15) "Window" shall mean the non-glass parts of a window, including but not limited to any window sash, window well, window jamb, window sill, or window molding.

§27-2056.3 **Owners' responsibility to remediate.** The existence of a lead-based paint hazard in any multiple dwelling where a child of applicable age resides is hereby declared to constitute a condition dangerous to life and health. An owner shall take action to prevent the reasonably foreseeable occurrence of such a condition and shall expeditiously remediate such condition and any underlying defect, when such underlying defect exists, consistent with the work practices established pursuant to section 27-2056.11 of this article, except where lead-contaminated dust is present in such multiple dwelling and the department of health and mental hygiene has made a determination pursuant to paragraph six of subdivision c of section 27-2056.10 of this article.

§27-2056.4 **Owners' responsibility to notify occupants and to investigate.**

- a. In any dwelling unit in a multiple dwelling erected prior to January first, nineteen hundred sixty where a child of applicable age resides, and in any dwelling unit in a multiple dwelling erected on or after January first, nineteen hundred sixty and before January first, nineteen hundred seventy-eight where a child of applicable age resides and the owner has actual knowledge of the presence of lead-based paint, and in common

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areas of such multiple dwellings, the owner shall cause an investigation to be made for peeling paint, chewable surfaces, deteriorated subsurfaces, friction surfaces and impact surfaces. Such investigation shall be undertaken at least once a year and more often if necessary, such as when, in the exercise of reasonable care, an owner knows or should have known of a condition that is reasonably foreseeable to cause a lead-based paint hazard, or an occupant makes a complaint concerning a condition that is likely to cause a lead-based paint hazard or requests an inspection, or the department issues a notice of violation or orders the correction of a violation that is likely to cause a lead-based paint hazard. The owner shall ascertain whether a child resides therein pursuant to the requirements of this section.

- b. No occupant in a dwelling unit in such multiple dwelling shall refuse or unreasonably fail to provide accurate and truthful information regarding the residency of a child of applicable age therein, nor shall an occupant refuse access to the owner at a reasonable time and upon reasonable prior notice to any part of the dwelling unit for the purpose of investigation and repair of lead-based paint hazards.
- c. All leases offered to tenants or prospective tenants in such multiple dwellings must contain a notice, conspicuously set forth therein, which advises tenants of the obligations of the owner and tenant as set forth in this section. Such notice must be in a manner approved by the department, the content of which shall, at a minimum, be in English and Spanish. The owner of such multiple dwelling shall provide the occupant of such multiple dwelling with the pamphlet described in subdivision b of section 17-179 of this code.
- d.
 - (1) The owner of such a multiple dwelling shall provide to an occupant of a dwelling unit at the signing of a lease, including a renewal lease, if any, or upon any agreement to lease, or at the commencement of occupancy if there is no lease, a notice in English and Spanish, the form and content of which shall be approved by the department of health and mental hygiene, inquiring whether a child of applicable age resides or will reside therein. If there is a lease, such notice shall be included in such lease or be attached as a rider to such lease. Such notice shall be completed by the occupant at the time of such signing of a lease, including a renewal lease, if any, or such agreement to lease, or at such commencement of occupancy.
 - (2) Where an occupant has responded to the notice provided by the owner pursuant to paragraph one of subdivision d of this section by indicating that no child of applicable age resides therein, during the period between the date of such response and the delivery of the notice provided by the owner pursuant to subdivision e of this section during the immediately following year the occupant shall have the responsibility to inform the owner of any child of applicable age that comes to reside therein during such period. In the event such occupant fails to inform the owner of such child as required by this paragraph, and the owner does not otherwise have actual knowledge that such child is residing in the dwelling unit, the presumption provided for in section 27-2056.5 of this article shall not apply in any action to recover damages for personal injury caused by contact with or exposure to lead-based paint or lead-contaminated dust.
- e.
 - (1) Each year, an owner of a multiple dwelling erected prior to January first, nineteen hundred sixty shall, no earlier than January first and no later than January sixteenth,

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- except as provided for in subparagraph iii of paragraph two of this subdivision, present to the occupant of each dwelling unit in such multiple dwelling a notice inquiring as to whether a child of applicable age resides therein. Such notice, the form and content of which shall be approved by the department of health and mental hygiene, shall be presented as provided for in paragraph two of this subdivision, and shall be in English and Spanish.
- (2) The owner may present the notice required by paragraph one of this subdivision by delivering said notice by any one of the following methods:
- (i) by first class mail, addressed to the occupant of the dwelling unit;
 - (ii) by hand delivery to the occupant of the dwelling unit;
 - (iii) by enclosure with the January rent bill, if such rent bill is delivered after December fifteenth but no later than January sixteenth; or
 - (iv) by delivering said notice in conjunction with the annual notice required pursuant to section 17-123 of this code and the rules of the department of health and mental hygiene pertaining to the installation of window guards.
- (3)
- (i) Upon receipt of such notice the occupant shall have the responsibility to deliver by February fifteenth of that year, a written response to the owner indicating whether or not a child of applicable age resides therein. If, subsequent to delivery of such notice, the owner does not receive such written response by February fifteenth, and does not otherwise have actual knowledge as to whether a child of applicable age resides therein, then the owner shall at reasonable times and upon reasonable notice inspect that occupant's dwelling unit to ascertain the residency of a child of applicable age and, when necessary, conduct an investigation in order to make that determination. Where, between February sixteenth and March first of that year, the owner has made reasonable attempts to gain access to a dwelling unit to determine if a child of applicable age resides in that dwelling unit and was unable to gain access, the owner shall notify the department of health and mental hygiene of that circumstance.
 - (ii) Where an occupant has responded to the notice provided by the owner pursuant to subparagraph (i) of this paragraph by indicating that no child of applicable age resides therein, during the period between the date of such response and the delivery of the notice provided by the owner pursuant to this subdivision during the immediately following year the occupant shall have the responsibility to inform the owner of any child of applicable age that comes to reside therein during such period. In the event such occupant fails to inform the owner of such child as required by this paragraph, and the owner does not otherwise have actual knowledge that such child is residing in the dwelling unit, the presumption provided for in section 27-2056.5 of this article shall not apply in any action to recover damages for personal injury caused by contact with or exposure to lead-based paint or lead contaminated dust.
- (4) For calendar year two thousand four, an owner shall be deemed to have satisfied the provisions of paragraphs one through three of this subdivision if such owner delivers or has already delivered to each dwelling unit where a child under six years of age resides a notice identical or substantially similar to that required to have been delivered in calendar year two thousand three, (i) in the same manner as was required

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- in calendar year two thousand three, and (ii) during the same periods of time in calendar year two thousand four as such notice was required to have been delivered during calendar year two thousand three.
- f. The owner shall inform the occupant in writing of the results of an investigation undertaken pursuant to this section and shall provide a copy of any such report received or generated by an investigation. The owner shall retain a copy of each investigation report, for ten years from the date of such report and such report shall be made available to the department on request and shall be transferred by the owner to the owner's successor in title.
 - g. Any owner who violates the provisions of this section, or the rules promulgated hereunder, shall be guilty of a misdemeanor punishable by a fine of up to five hundred dollars or imprisonment for up to six months or both. In addition, any violation of this section shall subject the owner to a civil penalty of not more than one thousand five hundred dollars per violation.
 - h. The department may, at its discretion, perform sample audits to determine compliance with the requirements of this section.

§27-2056.5 **Presumption.**

- a. In any multiple dwelling erected prior to January 1, 1960, it shall be presumed that the paint or other similar surface-coating material in any dwelling unit where a child of applicable age resides or in the common areas is lead-based paint. The presumption established by this section may be rebutted by the owner of the dwelling or dwelling unit by submitting to the department a sworn written statement by the owner supported by lead-based paint testing or sampling results, a sworn written statement by the person who performed the testing if performed by an employee or agent of the owner, and such other proof as the department may require. Testing performed to rebut the presumption may only be performed by a person who has been certified as an inspector or risk assessor in accordance with subparts L and Q of part 745 of title 40 of the code of federal regulations or any successor regulations. The determination as to whether such proof is adequate to rebut the presumption established by this section shall be made by the department.
- b. The owner of a dwelling or a dwelling unit may apply to the department to have such dwelling or dwelling unit exempted from the presumption contained in subdivision a of this section when either (i) an inspection for lead-based paint in such dwelling or dwelling unit, performed in accordance with section 745.227 of title 40 of the code of federal regulations, or any successor regulation, has determined that there is no lead-based paint present in such dwelling or dwelling unit, or (ii) substantial alterations have been made to such dwelling or dwelling unit and such alterations have resulted in the removal or permanent covering of all lead-based paint in that dwelling or dwelling unit. The department shall by rule determine the requirements needed to qualify for such an exemption. Sections 27-2056.4, 27-2056.8 and 27-2056.9 of this article shall not apply to any dwelling or dwelling unit that has been granted an exemption by the department.

§27-2056.6 **Violation in a dwelling unit.** The existence of lead-based paint in any dwelling unit in a multiple dwelling where a child of applicable age resides shall constitute a class C immediately hazardous violation if such paint is peeling or is on a deteriorated subsurface.

§27-2056.7 **Audit and inspection by department following commissioner's order to abate.**

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- a. When the department of health and mental hygiene issues a commissioner's order to abate pursuant to section 173.13 of the New York city health code or a successor rule that addresses lead-based paint hazards in a specific dwelling unit in a multiple dwelling, the department, within fifteen days of such order, shall notify the owner of the multiple dwelling where the dwelling unit is located that the owner shall, within forty-five days of the department's notice, provide to the department all records required to be maintained under this article. Upon the department's receipt of those records and a determination that there may exist uncorrected lead-based paint hazards in dwelling units where a child of applicable age resides, the department within ten days shall attempt to inspect such units to determine whether there are any violations of section 27-2056.6 of this article.
- b. If the owner does not provide to the department the records as mandated by subdivision a of this section, the department shall within forty-five days of such failure attempt to inspect dwelling units where a child of applicable age resides to determine whether there are any violations of section 27-2056.6 of this article in such units.
- c. The department is not required to undertake the procedures specified in this section in a particular multiple dwelling if it has done so in such building during the prior twelve month period.
- d. Any owner who fails to comply with the provisions of this section in accordance with the rules of the department shall be liable for a class C immediately hazardous violation, and a civil penalty in an amount not to exceed one thousand dollars.

§27-2056.8 Violation in a dwelling unit upon turnover.

- a. Upon turnover of any dwelling unit in a multiple dwelling erected prior to January 1, 1960 or a dwelling unit in a private dwelling erected prior to January 1, 1960 where each dwelling unit is to be occupied by persons other than the owner or the owner's family, the owner shall within such dwelling unit have the responsibility to:
 - (1) remediate all lead-based paint hazards and any underlying defects, when such underlying defects exist;
 - (2) make all bare floors, window sills, and window wells in the dwelling unit smooth and cleanable;
 - (3) provide for the removal or permanent covering of all lead-based paint on all friction surfaces on all doors and door frames; and
 - (4) provide for the removal or permanent covering of all lead-based paint on all friction surfaces on all windows, or provide for the installation of replacement window channels or slides on all lead-based painted friction surfaces on all windows.
- b. All work performed pursuant to this section shall be performed pursuant to the safe work practices promulgated pursuant to section 27-2056.11(a)(3) of this article.
- c. Any owner who fails to comply with the provisions of subdivision a of this section, or the rules of the department of health and mental hygiene or the department promulgated pursuant to section 27-2056.11(a)(3) shall be liable for a class C immediately hazardous violation.

§27-2056.9 Department inspections.

- a. When entering a dwelling unit in a multiple dwelling constructed prior to January 1, 1960 for the purpose of investigating the existence of any violation of this code, the department shall make diligent efforts to ascertain whether a child of applicable age resides therein and shall request from the occupant an acknowledgement as to whether such a child resides in the dwelling unit. Whenever a child of applicable age resides in a dwelling

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unit, the department shall immediately perform a room-by-room inspection of the dwelling unit and record for each room in a report of such inspection whether the paint or other similar surface-coating material in each room is peeling or intact. For each room where peeling paint is found, the department shall also inspect for evidence of an underlying defect and shall indicate on the inspection report the peeling paint's location within the room, the condition of the subsurface below it, and the location of any underlying defect. When performing such inspection, the department need only inspect those portions of the dwelling unit where furniture or other furnishings do not obstruct the view of a surface, except when there is visible evidence that causes the department to believe that the obstructed surface has peeling paint. Where, upon conducting an inspection, the department determines the existence of a condition constituting a violation of this article, the department shall serve a notice of violation within ten additional days.

- b. In any dwelling unit in a multiple dwelling erected prior to January 1, 1960 where a child of applicable age resides, the department shall conduct an inspection pursuant to subdivision a of this section no later than ten days after the department's receipt of a complaint describing peeling paint, or a deteriorated subsurface or underlying defect in the dwelling unit. The department shall make diligent efforts to ascertain whether a child of applicable age resides therein. Where the department attempts to perform an inspection of a dwelling unit within the time period required by this subdivision but is unable to gain access, the department shall be required to make a reasonable attempt to gain access to such dwelling unit within five days of such attempt. If the department is unable to gain access to that dwelling unit during this additional time period, the department shall provide written notice to the occupant of such dwelling unit that no further attempts at access shall be made unless a new complaint is submitted.
- c. Each inspector who performs an inspection pursuant to subdivision b of this section shall use an x-ray fluorescence analyzer during the course of that inspection to determine whether lead-based paint is present in such dwelling unit except that, for reasons beyond the control of the department, such x-ray fluorescence analysis is unable to be performed during such inspection, the department shall rely on the presumption set forth in subdivision a of section 27-2056.5 of this article. Where peeling paint is found during an inspection of a dwelling unit performed pursuant to subdivision a of this section, the department shall within ten days thereafter perform another inspection of such dwelling unit using an x-ray fluorescence analyzer to determine whether lead-based paint is present in such dwelling unit. Where, upon conducting an inspection, the department determines the existence of a condition constituting a violation of this article, the department shall serve a notice of violation within ten additional days.
- d. The pamphlet developed by the department of health and mental hygiene pursuant to section 17-179 of this code shall be left at the premises of the dwelling unit at the time of an inspection made by the department pursuant to this section.
- e. The department shall develop a pamphlet listing the work practices to be established pursuant to section 27-2056.11 of this article. Such pamphlet shall be delivered by the department in conjunction with all notices of violation issued pursuant to paragraph one of subdivision l of section 27-2115 of this code. Failure to include such pamphlet with such notices of violation shall not render null and void the service of such notices of violation. Such pamphlet shall also be made available to any member of the public upon request.

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- f. Notwithstanding any other provision of law, failure by the department or the department of health and mental hygiene to comply with any time period provided in this article or section 27-2115 of this chapter relating to responsibilities of the department and the department of health and mental hygiene, shall not render null and void any notice of violation issued by the department or the department of health and mental hygiene pursuant to such article or section, and shall not provide a basis for defense or mitigation of an owner's liability for civil penalties for violation of such article.

§27-2056.10 **Department implementation and enforcement.**

- a. The department shall provide appropriate training for lead-based paint inspection and supervisory personnel. Department personnel who conduct a visual inspection pursuant to this article shall receive training which at a minimum, shall be the training approved by the United States department of housing and urban development for performance of visual inspections. Department personnel who perform lead-based paint inspections using XRF machines shall receive training required by the United States environmental protection agency pursuant to section 745.226(b) of title 40 of the code of federal regulations or successor regulations. Training of all inspection and supervisory personnel shall also include background information pertaining to applicable state and local lead-based paint laws and guidance on identifying violations in a multiple dwelling, and require that the individual has successfully demonstrated knowledge of the requirements of this article. The department shall provide for the continuing education of inspection and supervisory personnel.
- b. The department, with the approval of the department of health and mental hygiene, shall promulgate a comprehensive written procedure to guide department personnel in implementing and enforcing this article. Where feasible, such procedures shall establish a uniform method for the department of health and mental hygiene and the department, following the method implemented by the department of health and mental hygiene, to describe violations and identify their location in a dwelling or dwelling unit. Such procedures shall include a methodology and a form to be used by department personnel when conducting an inspection to carry out and record an inspection pursuant to section 27-2056.9 of this article.
- c. The department shall promulgate rules for the implementation and enforcement of this article and to effect compliance with all applicable provisions of this article, rules promulgated thereunder, and all applicable city, state or federal laws, rules or regulations. Such rules shall be subject to the approval of the department of health and mental hygiene prior to their promulgation and shall include, but not be limited to, establishing:
- (1) uniform specifications and procedures to govern testing, including a standardized format for reporting such testing results, whenever paint or a similar surface-coating material is tested for its lead content, whether by or on behalf of an owner or an agency of the city of New York;
 - (2) procedures by which an owner shall comply with section 27-2056.4 of this article, including the form and content of the annual notice;
 - (3) procedures by which an owner shall submit rebuttal documentation to the department pursuant to 27-2056.5 of this article;
 - (4) procedures by which an owner may apply to the department to postpone the date by which a violation shall be corrected pursuant to subdivision l of section 27-2115 of this code, including, but not limited to, the stabilization of the paint which is the

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subject of the violation where an owner requests a second postponement of time to correct a violation in accordance with subdivision 1 of section 27-2115 of this code; and

- (5) procedures to implement and to enforce compliance with paragraph two of subdivision 1 of section 27-2115 of this code, which shall include, but not be limited to, the requirement that an owner certify to:
 - (i) the correction of a violation of this article of the code, and
 - (ii) compliance with the rules promulgated by the department pursuant to section 27-2056.11 of this code; and
- (6) procedures to be established by the department of health and mental hygiene to order or provide for the expeditious cleanup and removal of lead-contaminated dust when the department of health and mental hygiene determines that there is lead-contaminated dust in a dwelling unit where a child of applicable age resides, such child has an elevated blood level, and the department of health and mental hygiene determines that the source of that lead-contaminated dust is not a condition of the dwelling in which such dwelling unit is located.

§27-2056.11 **Work practices.**

- a. The department shall promulgate rules, with the approval of the department of health and mental hygiene, establishing work practices to which an owner shall be subject in each of the following circumstances:
 - (1) where an owner is performing work in order to comply with a notice of violation or order to correct issued by the department pursuant to this article, which shall be no less stringent than the safety standards required by the commissioner of health and mental hygiene whenever such commissioner shall order the abatement of lead-based paint hazards pursuant to section 173.13 of the health code or a successor rule. Such rules shall provide for temporary relocation provided by the owner of the occupants of a dwelling or dwelling unit to appropriate housing when work cannot be performed safely. Such rules shall provide that all such work be performed only by firms which have received certification to perform lead abatement under the regulations issued by the United States environmental protection agency at subpart L of part 745 of title 40 of the code of federal regulations, or any successor regulations.
 - (2) where an owner, other than in response to an order to correct or notice of violation issued by the department or the department of health and mental hygiene, is performing work that will disturb lead-based paint or paint of unknown lead content in a dwelling unit where a child of applicable age resides or in the common area of the multiple dwelling in which such dwelling unit is located, where such multiple dwelling was erected prior to January first, nineteen hundred sixty, or where the owner has actual knowledge of the presence of lead-based paint and such multiple dwelling was erected on or after January first, nineteen hundred sixty and before January first, nineteen hundred seventy-eight.
 - (i) Except as provided in subparagraph (ii) of this paragraph, such rules shall incorporate work practices that are no less protective of public health than those set forth in subdivisions d and e of section 173.14 of the health code and those parts of subdivision b of such section applicable thereto or a successor rule, and shall include a requirement that lead-contaminated dust clearance testing be performed at the completion of such work. Such rules shall require that such work

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be performed by a person who has, at a minimum, successfully completed a course on lead-safe work practices given by or on behalf of the department or, by the United States environmental protection agency or an entity authorized by it to give such course, or by the United States department of housing and urban development or an entity authorized by it to give such course. Such rules shall require temporary relocation provided by the owner of the occupants of a dwelling or dwelling unit to appropriate housing when work cannot be performed safely.

- (ii) Where such work will disturb more than one hundred square feet of lead-based paint or paint of unknown lead content in a room in a multiple dwelling, or will involve the removal of two or more windows with lead-based paint or paint of unknown lead content, such rules shall incorporate work practices that are no less protective of public health than those set forth in subdivisions d and e of section 173.14 of the health code and those parts of subdivision b of such section applicable thereto, or a successor rule, and shall include a requirement that lead-contaminated dust clearance testing be performed at the completion of such work. Such rules shall also require temporary relocation provided by the owner of the occupants of a dwelling or dwelling unit to appropriate housing when work cannot be performed safely. Such rules shall require, in addition, that all such work be performed only by firms which have received certification to perform lead abatement under the regulations issued by the United States environmental protection agency at subpart L of part 745 of title 40 of the code of federal regulations for the abatement of lead hazards, or any successor regulations. Such rules shall also provide that not less than ten days prior to the commencement of such work the owner of the premises, or the firm, shall file with the department of health and mental hygiene a notice of commencement so that the department of health and mental hygiene may, at its discretion, perform sample audits of such notices to determine that the firms performing the work are properly certified. Such notice shall be signed by the owner or by a representative of the firm, and shall be in a form satisfactory to or prescribed by the department of health and mental hygiene, and shall set forth at a minimum the following information:
- (a) The address of the multiple dwelling and the specific location of the work within the multiple dwelling.
 - (b) The name, address and telephone number of the owner of the multiple dwelling in which the work is to be performed.
 - (c) The name, address and telephone number of the firm which will be responsible for performing the work.
 - (d) The date and time of commencement of the work, working or shift hours, and the expected date of completion; and
 - (e) Identification of the surfaces and structures, and surface area, subject to the work.

The rules shall also provide that any changes in the information contained in the notice shall be filed with the department of health and mental hygiene prior to commencement of work, or if work has already commenced, within twenty-four hours of any change. The rules shall provide that a copy of the notice of commencement shall be posted at the work site.

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- (iii) The provisions of this paragraph shall not apply where such work disturbs surfaces of less than (a) two square feet of peeling lead-based paint per room or (b) ten percent of the total surface area of peeling paint on a type of component with a small surface area, such as a window sill or door frame.
- (3) where an owner is performing work on turnover pursuant to 27–2056.8 of this article. Such rules shall include, but not be limited to, requiring lead-contaminated dust clearance tests at the completion of such work.
- b. No person shall perform a lead-contaminated dust clearance test pursuant to this section unless such person is a third-party, who is independent of the owner and any individual or firm that performs the work, and has successfully completed a course approved or administered by the department of health and mental hygiene or by the United States environmental protection agency or the United States department of housing and urban development and obtained a certificate or other document issued by or acceptable to the department of health and mental hygiene.
- c. The department, with the approval of the department of health and mental hygiene, shall promulgate rules requiring that all lead-contaminated dust clearance tests submitted to a laboratory for analysis include a sworn certification that such test was performed in compliance with all applicable rules and regulations and shall include any additional information that the department shall determine is necessary for the administration and enforcement of this section.
- d. Where an owner is performing work pursuant to paragraph (1) of subdivision a of this section, all lead-contaminated dust clearance test results shall be filed with the department, and a copy shall be provided by the owner to the occupant of the dwelling unit. Where an owner is performing work pursuant to paragraphs (2) and (3) of subdivision a of this section, a copy of all lead-contaminated dust clearance test results shall be provided to the occupant of the dwelling unit. Copies of lead-contaminated dust clearance test results provided to the occupant of the dwelling unit pursuant to this subparagraph shall be in a form satisfactory to or prescribed by the department of health and mental hygiene that provides a sufficiently clear explanation of the meaning of such results.

§27–2056.12 **Reporting.**

- a. Within four months after the close of the first fiscal year after which this article takes effect and for every fiscal year thereafter, the commissioner shall provide to the council a written report on the department's implementation of this article during the preceding year. Such report shall include, at a minimum, an analysis of the department's program, a detailed statement of revenue and expenditures and statistical section designed to provide a detailed explanation of the department's enforcement including, but not limited to, the following:
 - (1) the number of complaints for peeling paint in pre-1960 dwelling units where a child of applicable age resides, disaggregated by city or non-city ownership of the building which is the subject of the complaint;
 - (2) the number of inspections by the department pursuant to this article, disaggregated by the city or non-city ownership of the building where the inspection occurred;
 - (3) the number of violations issued by the department pursuant to this article;
 - (4) the number of violations issued pursuant to this article that were certified as corrected by the owner, the number of such certifications that did not result in the removal of

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- such violations, and the number of civil actions brought by the department against such owners; and
- (5) the number of jobs performed in which violations issued pursuant to this article were corrected by the department, the total amount spent by the department to correct the conditions that resulted in the violations, and the average amount spent per dwelling unit to correct such conditions; and
 - (6) a statistical profile with geographic indexing, such as by community district, council district, and/or zip code, of multiple dwellings in which violations are placed, indicating the ages of the multiple dwellings and other factors relevant to the prevalence of lead-based paint hazards, which may include the prior lead poisoning of a child in the multiple dwelling, outstanding violations, and emergency repair charges.
- b. The department of health and mental hygiene shall prepare a report on progress toward increasing screening rates and reducing the incidence rates of children newly identified with elevated blood lead levels. This report shall be utilized by the department in its implementation of this article. Such report shall be submitted to the council within nine months after the close of each calendar year.
- c. The department shall maintain a central register of all department orders to correct a violation under this article. Such register shall indicate, if applicable, the date of the complaint, address of the premises, and the date of each inspection and reinspection.

§27–2056.13 Transmittal of violations to the Department of Health and Mental Hygiene. The department shall send a notice which shall be addressed to the dwelling unit in the multiple dwelling, when a dwelling unit is identified, for which a violation of this article was issued. Such notice shall include a telephone number for the department of health and mental hygiene. The department shall also refer to the department of health and mental hygiene the address of the unit in the multiple dwelling for which such violation was issued, the name of the complainant, if any, and the complainant's telephone number, if available. The department of health and mental hygiene, pursuant to section 17-179 of this code, shall refer to appropriate medical providers any person who requests assistance in blood lead screening, testing, diagnosis or treatment, and upon the request of a parent or guardian, arrange for blood lead screening of any child who requires screening and whose parent or guardian is unable to obtain a lead test because the child is uninsured or the child's insurance does not cover such screening.

§27–2056.14 Inspections by Department of Health and Mental Hygiene and removal of health code violations by Department of Housing Preservation and Development. Whenever a report has been made to the department of health and mental hygiene of a person under eighteen years of age with an elevated blood lead level of fifteen micrograms per deciliter or higher residing in any dwelling unit, the department of health and mental hygiene shall conduct such investigation as may be necessary to identify potential sources of the elevated blood lead level, including but not limited to, an inspection of the dwelling unit where such person resides. If the department of health and mental hygiene issues an order to correct any violation, the department of health and mental hygiene shall notify the department of each dwelling unit in a dwelling for which the department of health and mental hygiene has issued an order to correct a violation. Where the owner of the dwelling or relevant dwelling unit within such dwelling fails to comply with an order of the department of health and mental hygiene to correct a violation placed by the department of

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health and mental hygiene, the department of health and mental hygiene shall certify such conditions to the department of housing preservation and development. The certification procedure shall be completed within sixteen days of the report of the elevated blood lead level. The conditions so certified shall be corrected within eighteen days of certification to the department.

§27–2056.15 **Waiver of benefit void.**

- a. No owner may seek to have an occupant of a dwelling unit waive the benefit or protection of any provision of this article. Any agreement by the occupant of a dwelling unit purporting to waive the benefit or protection of any provision of this article is void. Any owner who violates this section, or the rules promulgated hereunder, shall be guilty of a misdemeanor punishable by a fine of up to five hundred dollars or imprisonment for up to six months or both. In addition, any owner who violates this section shall be liable for a civil penalty of not more than five hundred dollars per violation.
- b. Notwithstanding any other provision of this article, nothing herein shall be construed to alter existing or future agreements which allocate responsibility for compliance with the provisions of this article between a tenant shareholder and a cooperative corporation or between the owner of a condominium unit and the board of managers of such condominium.
- c. The provisions of this article, other than section 27–2056.14, shall not apply to a dwelling unit in a multiple dwelling where (i) title to such multiple dwelling is held by a cooperative housing corporation or such dwelling unit is owned as a condominium unit, and (ii) such dwelling unit is occupied by the shareholder of record on the proprietary lease for such dwelling unit or the owner of record of such condominium unit, as is applicable, or the shareholder's or record owner's family.

§27–2056.16 **Exemption for emergency conditions.** For emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety or to protect property from further major damage, such as when a property has been damaged by a natural disaster, fire, structural collapse, cascading water, lack of utilities or other emergency conditions, occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable and the requirements of this article shall not apply. This exemption applies only to repairs immediately necessary to respond to the emergency. The requirements of this article shall apply to any work undertaken subsequent to or above and beyond such emergency actions.

§27–2056.17 **Record keeping requirements.** The owner of any multiple dwelling or dwelling that performs any work pursuant to this article shall retain all records relating to such work for a period of no less than ten years from the completion date of such work. The owner shall make any such records required to be retained by this section available to the department upon the department's request, and shall transfer such records to the owner's successor in title.

§27–2056.18 **Application of this article based on age of child.** For the purposes of this article, the term "applicable age" shall mean "under seven years of age" for at least one calendar year from the effective date of this section. Upon the expiration of such one year period, in accordance with the procedures by which the health code is amended, the board of health may determine whether or not the provisions of this article should apply to children of age six, and based on this determination, may redefine "applicable age" for the purposes of some or all of the provisions of this article to mean "under six years of age," but no lower.

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**SUBCHAPTER 3
PHYSICAL AND OCCUPANCY STANDARDS FOR DWELLING UNITS**

**ARTICLE 1
LIGHTING AND VENTILATION**

§27–2057 Lighting and ventilation in multiple dwellings; general requirements.

- a. No multiple dwelling shall be so altered as to diminish the light and ventilation of any room in any way not approved by the department.
- b. Every required window shall be so located as to light properly all portions of the room.
- c. Any obstruction of required light and ventilation shall be unlawful.

§27–2058 Lighting and ventilation of living rooms in multiple dwellings erected after nineteen hundred twenty-nine.

- a. Required windows. Every living room in a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, shall have at least one window opening on:
 - (1) a street;
 - (2) a lawful yard or court on the same lot;
 - (3) a partially enclosed balcony or space above a setback which opens directly to a street, yard or court if the area of the front of such balcony or space open to the outer air is at least equal to seventy-five percent of the floor area of such balcony or space; or
 - (4) A completely enclosed balcony or space above a setback in a fireproof multiple dwelling if: the enclosure is not more than one story in height; the outer enclosing walls and roof are of incombustible materials; an area, glazed with clear plate glass or plastic equivalent, on the outer enclosing walls if at least fifty percent of the area of the interior enclosing walls; and at least fifty percent of such glazed area opens on a street, legal yard or court. One-half of such glazed area shall be openable. A living room does not include a kitchen under this paragraph.
- b. No required window of a living room shall open on an offset or a recess of less than six feet in width.
- c. Size of windows.
 - (1) The total area of all windows in the room shall be at least one-tenth the floor area of such room, except that when a room opens solely on a balcony or space above a setback the total area of such opening shall be one-tenth the combined floor area of the room and that portion of the balcony or space directly in front of such room. In determining the ratio of windows to floor area, the combined glazed area of windows and doors opening on a balcony or a space above a setback may be used.
 - (2) Every required window shall be at least twelve square feet.
 - (3) At least one-half of every required window shall open, except that for a mullioned casement window a minimum of five and one-half square feet is sufficient. In a room where a centralized mechanical ventilating system provides forty cubic feet of air per minute, twenty-five percent of the window area or five and one-half square feet of such area, whichever is greater, shall be openable.
 - (4) The top of one required window in every room shall be at least seven feet above the floor, except that in dwellings erected pursuant to plans filed after April twenty-third, nineteen

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hundred fifty-nine, and prior to June fourteenth, nineteen hundred sixty-seven, this requirement shall not apply.

- d. Through ventilation.
 - (1) No part of any living room with windows, or doors in lieu thereof, opening on a balcony or space above a setback shall be more than thirty feet from the exterior face of the outer enclosing wall.
 - (2) In any dwelling unit in a non-fireproof multiple dwelling or in a dwelling unit of three rooms or less in a fireproof multiple dwelling, no part of any room shall be more than thirty feet from a window opening on a street or yard unless such room also opens on a legal court.
- e. Openings on lot line. Every window and its assembly in a wall situated on a lot line, except a street line, shall be fireproof; the assembly shall have a fire resistive rating of at least three-quarters of an hour; and the window shall be glazed with wire glass at least one quarter of an inch thick. Every such window shall be of automatic self closing construction whenever it is less than fifty feet above the non-fireproof roof of another structure located thirty feet or less from the lot line.
- f. Dining space. A dining space shall have a window which:
 - (1) Complies with the provisions of subdivision a of this section, and
 - (2) Has an area at least one-eighth the floor area of such dining space.

§27-2059 **Lighting and ventilation of living rooms in converted dwellings.**

- a. Required windows. Except as provided in subdivision c, every living room in a converted dwelling shall have at least one window opening on:
 - (1) A street,
 - (2) A yard or outer court which complies with the provisions of section one hundred seventy-two of the multiple dwelling law, or
 - (3) An inner court or shaft with minimum dimensions of three feet, nine inches in width and eight feet in length.

For a room located on the top story, a skylight of the dimensions required in subdivision b may be substituted for a window.

- b. Size of windows.
 - (1) The total area of all windows in the room shall be at least one-tenth the floor area of such room.
 - (2) Every required window or skylight shall be at least twelve square feet, except that if the total area of windows in the room is one-eighth of the floor area this requirement shall not apply.
 - (3) At least one-half of every required window shall open. One-half of the skylight shall have ventilating openings, unless (a) the skylight is equipped with a minimum of one hundred and forty-four square inches of ventilation, and (b) there is at least one window in the room, and (c) the combined glazed area of the skylight and window is at least one-eighth of the floor area.
 - (4) The top of every required window shall be at least seven feet above the floor, except that on the top story it shall be a minimum of six feet above the floor.
- c. Noncomplying rooms.
 - (1) A room which is noncomplying with the minimum room size requirements of subdivision b of section 27-2074 of article four of this subchapter or with the requirements of subdivisions a and b of this section may not be occupied unless it has a single or

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unbroken opening of not less than thirty-two and one-half square feet into an immediately adjoining room. Such adjoining room shall have a window on a street or a yard which complies with the provisions of section one hundred seventy-two of the multiple dwelling law, except that if the dwelling is two stories or less in height, the window of such adjoining room may open on an outer court or a court not less than four feet in width extending from street to yard.

(2) No room may be subdivided in any manner unless each subdivided portion meets the requirements of paragraph one of this subdivision, or of subdivision a of this section.

§27–2060 **Lighting and ventilation of living rooms in new law tenements.**

- a. Required windows. Every living room in a new law tenement shall have a window opening on:
 - (1) A street, or
 - (2) A lawful yard or court.
- b. Size of windows.
 - (1) The total area of all windows in the room shall be at least one-tenth the floor area of such room.
 - (2) Every required window shall be at least twelve square feet.
 - (3) At least one-half of every required window shall open.
 - (4) The top of one required window in a room shall be at least seven feet six inches above the floor.
- c. Through ventilation.
 - (1) Every part of a dwelling unit of three rooms or less shall be either within eighteen feet of a street or yard or have a window opening upon a lawful court.
 - (2) If the window of any room opens on an inner court with a width of less than ten feet between the exterior wall of the dwelling and the lot line, there shall be a sash window connecting such room to an adjoining room within the dwelling unit. The sash window shall have at least ten square feet of glazed area, one-half of which shall open.
- d. Dining space. A dining space shall have at least one window:
 - (1) That complies with the provisions of subdivision a; and
 - (2) That has an area not less than one-eighth the floor area of such dining space.

§27–2061 **Lighting and ventilation of living rooms in old law tenements.**

- a. Required windows. Every living room in an old law tenement shall either have a window opening:
 - (1) On a street; or
 - (2) On a yard at least four feet in depth; or
 - (3) On a court or shaft at least twenty square feet in area open to the sky without a roof or skylight; or
 - (4) Above the roof of an adjoining building; or it shall meet the requirements of the multiple dwelling law. In the event that a window opens above the roof of an adjoining building and the light and air from the adjoining lot is thereafter diminished in any way, the department may determine that such a room is a noncomplying room and require compliance with the requirements of the multiple dwelling law. For a room located on the top story, a ventilating skylight opening to the outer air may be substituted for a window. At least one-half of every required window shall open.
- b. Dining space. A dining space shall have at least one window which:
 - (1) Opens on a street, yard or legal court, and

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(2) Has an area not less than one-eighth the floor area of such dining space.

§27-2062 Lighting and ventilation in one- and two-family dwellings.

- a. Required windows. Every living room shall have at least one window open to a street, public place or an open and unobstructed yard, court or other required open space on the same lot as the dwelling.
- b. Size of windows; substitutes for windows.
 - (1) The total area of all windows in the room shall be at least one-tenth the floor area of such room, or twelve square feet, whichever is greater.
 - (2) Skylights, opening directly to the outer air, transparent or translucent panels or doors, or other natural light transmitting media may be substituted for window openings, subject to the approval of the department, if they provide an equivalent amount of light to that transmitted through the window area required in paragraph one of this subdivision.
 - (3) At least forty-five percent of the required window area, skylight or other openings shall be openable to provide natural ventilation. If a mechanical ventilation system provides forty cubic feet of air per minute, the openable area may be reduced to twenty-five percent.
- c. Noncomplying rooms.
 - (1) A living room in a one or two-family dwelling constructed after January first, nineteen hundred thirty-eight which meets the minimum room size requirements of article four of this subchapter but does not comply with subdivision a of this section may not be occupied unless it has a single unbroken opening of not less than sixty square feet into an immediately adjoining room. The adjoining room shall have at least one window opening to the outer air and such window shall be not less than one-tenth of the combined floor area of the room.
 - (2) In a one- or two-family dwelling constructed prior to January first, nineteen hundred thirty-eight, an opening shall be required between a room without a window and an immediately adjoining living room with at least one window. Such opening shall have a minimum size of thirty-two and one-half square feet.

ARTICLE 2
SANITARY FACILITIES

§27-2063 Location of water closets.

- a. Water closets are prohibited in any yard, court or other open space. The owner shall remove any such existing water closet or other similar receptacle and, under the direction of the department, disinfect the area where such receptacle was located.
- b. Water closets are prohibited in a cellar or basement, unless they are either provided for lawful cellar and basement dwelling units, or are supplementary to water closets required under the provisions of this article.
- c. In any apartment, a water closet may be placed in a separate compartment or in a bathroom.
- d. In any apartment, no more than one water closet shall be placed within a single compartment.
- e. In a class A multiple dwelling, a general toilet room containing more than one water closet is prohibited, unless such water closets are supplementary to the facilities required for each apartment, or serve the nonresidential portions of the premises.

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- f. In a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, no water closet located within a compartment or bathroom may open into any kitchen or kitchenette.

§27–2064 Size and construction of water closet compartments.

- a. Every water closet compartment shall be at least two feet, four inches in clear width.
- b. The walls enclosing every water closet compartment shall extend from floor to ceiling except in general toilet or bath rooms.
- c. The walls of every water closet compartment and general toilet or bath room shall be plastered, tiled or covered with similar materials approved by the department.
- d. The floor of every water closet compartment, bath room or general toilet room shall be waterproofed with material approved by the department. Such waterproofing shall extend at least six inches above the floor, except at the doors.
- e. Drip trays are prohibited.
- f. No water closet or other plumbing fixture shall be enclosed with any woodwork.

§27–2065 Light and ventilation of water closet compartments.

- a. In every water closet compartment, bathroom and general toilet room one of the following requirements for light and ventilation shall be met:
 - (1) There shall be a window opening upon a street, yard, court, partially enclosed balcony or space above a setback, on an offset or recess which may be less than six feet in width. Every such window shall be at least three square feet in area and one-half of its area shall open.
 - (2) If the water closet compartment, bathroom or general toilet room is either located on the top story or is underneath the bottom of a lawful shaft or court, it may be lighted and ventilated by a skylight in the roof. Such skylight shall contain three square feet of glazed area and shall open.
 - (3) There shall be a system of mechanical ventilation, approved for construction and arrangement by the department. In a multiple dwelling such system of ventilation shall be maintained and operated continuously to provide at least four changes per hour of the air volume of each water closet, bathroom or general toilet room daily from six o'clock in the morning until midnight in all residential parts of a dwelling and from seven o'clock in the morning until seven o'clock at night in any nonresidential parts of a dwelling. In a private dwelling the approved system of mechanical ventilation may be switch-operated.
- b. Nothing in this section shall require any change to be made in the lighting or ventilation of water closets, bathrooms, or general toilet rooms in any portion of any old law tenement or any converted dwelling if such lighting or ventilation was lawful on July first, nineteen hundred sixty-one and in one or two family dwellings if such lighting or ventilation was lawful on August second, nineteen hundred sixty-seven.

§27–2066 Sanitary facilities in apartments.

- a. Multiple dwellings erected after nineteen hundred twenty-nine:
 - (1) Every apartment in a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine shall contain a water closet and a bath.
 - (2) In every such dwelling exceeding two stories in height, a water closet shall be accessible to every bedroom without passing through any other bedroom, and such access shall be required in every dwelling of two stories or less in height erected after July first, nineteen hundred sixty-one.
 - (3) In a multiple dwelling erected after July fourteenth, nineteen hundred sixty-seven, every apartment shall contain a washbasin.

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- b. Converted dwellings.
 - (1) Every apartment in a converted dwelling shall contain a water closet and a bath or shower; and every apartment in a dwelling converted after July first, nineteen hundred sixty-one shall also contain a washbasin.
 - (2) In an apartment located in a dwelling converted after April thirteenth, nineteen hundred forty, there shall be access to a water closet from every bedroom without passing through any other bedroom.
- c. New law tenements.
 - (1) Every apartment in a new law tenement shall contain a water closet and a bath.
 - (2) In every apartment, a water closet shall be accessible to every bedroom without passing through any other bedroom.
- d. Old law tenements.
 - (1) In every old law tenement a water closet shall be provided for the exclusive use of the occupants of every apartment. If it is not located within the apartment, the water closet shall be located on the same story as the apartment and shall be equipped with lock and key.
 - (2) Such water closet shall be constructed and ventilated as approved by the department.
- e. New apartments in converted dwellings or tenements. After December ninth, nineteen hundred fifty-five, in any converted dwelling or tenement in which:
 - (1) the number of apartments in the dwelling is increased by any alteration, including the subdivision of existing apartments, the conversion of non-residential space or rooming units to apartments, or the enlargement of the dwelling; or
 - (2) all apartments in the dwelling are vacated by the department or, except in a summer resort dwelling, are untenanted for sixty days or more; a new certificate of occupancy shall not be issued and a newly created apartment shall not be occupied, or a vacated apartment reoccupied, unless it contains a water closet, bath or shower, and washbasin.
- f. Requirements for all apartments in multiple dwellings effective January first, nineteen hundred seventy-three: Effective January first, nineteen hundred seventy-three, there shall be provided for the exclusive use of the occupants of each apartment in a multiple dwelling a water closet, a bath or shower; and a wash basin, except that in tenements, no wash basin shall be required pursuant to this section where there is a sink within the apartment.

§27-2067 **Sanitary facilities in rooming units.**

- a. Every building containing rooming units, and each individual apartment used for single room occupancy, shall contain at least one water closet, washbasin and bath or shower for each six persons lawfully occupying rooming units therein, and for any remainder of less than six persons. At least one water closet shall be located on any floor containing a rooming unit. If there are not more than two rooms on the first story above the basement in said rooming house, no water closet is required on such floor but the occupants of the room shall be counted in determining the required number of facilities.
- b. Every occupant of a rooming unit shall have access to each required water closet, washbasin and bath or shower without passing through any other rooming unit or portion of the dwelling reserved for other occupants.
- c. Any additional water closet installed to comply with the requirements of subdivision a of this section shall be located in a compartment, separate from any other water closet, bath or shower, except that a required washbasin may be provided in such compartment. Such

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additional baths, or showers, shall be located in compartments separate from every required water closet.

- d. Sanitary facilities for the exclusive use of and accessible only to the occupants of one rooming unit may be combined in a bathroom. Neither the facilities nor the occupants shall be counted in determining the number of the facilities required in subdivision a of this section.

§27–2068 Sanitary facilities in certain multiple dwellings erected after nineteen hundred twenty-nine.

- a. Fireproof multiple dwelling. In a fireproof multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, in which any living room opens directly upon a public hall without any intervening room, foyer or passage, or in which any suites of two living rooms open upon a foyer giving direct access to a public hall, there shall be one water closet for every three such living rooms on a story. Every such water closet shall be accessible to one or more such rooms without passage through a public hall or bedroom. In a class B multiple dwelling, where any such living room does not have access to a water closet without passage through a public hall or bedroom, there shall be at least one water closet for every such fifteen living rooms or fraction thereof, and every such living room shall have access to a water closet through a public hall.
- b. Fireproof class B dwelling. In a fireproof class B multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, in which every living room, excluding rooms occupied by management and maintenance personnel of the dwelling, opens directly to a public hall without passing through any other room, foyer or private hall, there shall be two water closets for the first twenty living rooms or fraction thereof, and one additional water closet for each additional fifteen living rooms or fraction thereof. Such water closets may be located in compartments or in general toilet rooms accessible from every living room on the floor. A urinal may be substituted for a water closet on any story where seventeen or more rooms are occupied exclusively by males, but not more than one-quarter of the required facilities may be urinals.
- c. Nonfireproof class B dwellings. In a nonfireproof class B multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, there shall be one water closet and washbasin for every seven living rooms. One such water closet compartment with washbasin shall be accessible to every room on each floor.
- d. Sanitary facilities for employees of tenants. If employees of the tenants occupy two or more rooms opening directly to the same public hall in a fireproof multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, there shall be one water closet for the first four rooms or fraction thereof and one additional water closet for each additional seven rooms or fraction thereof. Such facilities shall be accessible either directly from such rooms or through the public halls.

§27–2069 Sanitary facilities in one- and two-family dwellings. The owner of a one- or two-family dwelling shall provide for the exclusive use of the occupants of each dwelling unit at least one water closet, one washbasin, and one bath or shower. Such facilities shall be located on the same story as each dwelling unit, or on any of the stories to which a dwelling unit extends.

ARTICLE 3 KITCHENS AND KITCHENETTES

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§27-2070 **Facilities and equipment.**

- a. The owner of a multiple dwelling shall provide every kitchen and kitchenette therein with gas or electricity or both for cooking.
- b. The owner of a multiple dwelling shall provide every kitchen and kitchenette therein with a sink with running water, equipped with a waste and trap at least two inches in diameter.
- c. Every kitchenette in a multiple dwelling shall be surrounded by partitions extending from the floor to the ceiling, except for entrances to such kitchenette. When located within a room, such kitchenette, except for entrances, shall be designed so that it is separated from said room. However, a kitchenette existing on December ninth, nineteen hundred fifty-five shall be deemed to be in compliance with this subdivision if it is maintained in accordance with prior acceptance or approval by the department.

§27-2071 **Lighting and ventilation.** The following requirements shall govern in multiple dwellings:

- a. The lighting and ventilation of kitchens shall be governed by the provisions on lighting and ventilation in article one of this subchapter.
- b. A kitchenette constructed after July first, nineteen hundred forty-nine, shall have a window opening upon a street, a yard, court, shaft, any partially enclosed balcony or space above a setback, as described in paragraph three of subdivision a of section 27-2058 of article one of this subchapter, or an offset or recess less than six feet in width. Such window shall be at least one foot wide, have a total area of at least three square feet and be at least ten percent of the floor area of such kitchenette. In lieu of such window, such kitchenette may have mechanical ventilation to provide at least six changes per hour of the air volume of such kitchenette, or, when such kitchenette is on the top story, may have a skylight of at least one foot wide with a total area of at least four square feet or one-eighth of the area of the kitchenette, whichever is greater, and shall have ventilating openings of at least one-half of the area of the skylight.
- c. A kitchenette constructed after July first, nineteen hundred forty-nine, may have a door or doors, if the lower portion of each door has a metal grille containing at least forty-eight square inches of clear openings or, in lieu of such grille, there are two clear open spaces, each of at least twenty-four square inches, one between the bottom of the door and the floor, and the other between the top of the door and the head jamb.
- d. A kitchenette shall be deemed to be in compliance with this section if it was accepted or approved by the department on or before July first, nineteen hundred fifty-two, and if it was maintained in accordance with such acceptance or approval.

§27-2072 **Fire protection.**

- a. In a multiple dwelling, the owner shall fire-retard in every kitchen and kitchenette all combustible material immediately underneath or within one foot of any apparatus used for cooking or warming food; or shall cover such combustible material with asbestos of at least three-sixteenths of an inch in thickness and twenty-six gauge metal, or with fire resistive material of equivalent rating, except where such cooking or warming apparatus is installed in accordance with requirements established by the department in conformity with generally accepted safety standards. There shall be at least two feet of clear space above the exposed cooking surface of any such apparatus.

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- b. In a multiple dwelling, the owner shall, in every kitchenette, either fire-retard the ceilings and walls, exclusive of doors, or install one or more sprinkler heads to fuse at a temperature not higher than two hundred and twelve degrees Fahrenheit. Such heads shall be connected to the water supply through a pipe of at least one-half inch in diameter. Any kitchenette which was accepted or approved by the department on or before July first, nineteen hundred fifty-two and maintained in accordance with such acceptance or approval shall be deemed to be in compliance with this subdivision.

§27-2073 Requirements for kitchens and kitchenettes in one- and two-family dwellings. The following requirements shall govern one- and two-family dwellings:

- a. The lighting and ventilation of kitchens constructed on or after July fourteenth, nineteen hundred sixty-seven shall be governed by the provisions on lighting and ventilation of section 27-2062 of article one of this subchapter.
- b. Every kitchenette constructed on or after July fourteenth, nineteen hundred sixty-seven shall be provided with a window opening upon a street, yard, or court. Such window shall be at least one foot wide, have a total area of at least three square feet and be at least ten percent of the floor area of such kitchenette. However, when a kitchenette is on the top story, it may have, in lieu of such window, a skylight at least one foot wide with a total area of at least four square feet or one-eighth of the area of the kitchenette, whichever is greater, and which shall have ventilating openings of at least one-half of the area of the skylight. In lieu of a window, a kitchenette may have mechanical ventilation to provide at least six changes per hour of the air volume of such kitchenette.
- c. Every kitchenette may be equipped with a door or doors, if the lower portion of each such door has a metal grille containing at least forty-eight square inches of clear openings or, in lieu of such a grille, there are two clear open spaces, each of at least twenty-four square inches, one between the bottom of the door and the floor, and the other between the top of the door and the head jamb.
- d. In every kitchen and kitchenette, constructed on or after July fourteenth, nineteen hundred sixty-seven, all combustible material immediately underneath or within one foot of any permanent apparatus used for cooking or warming food shall be fire-retarded or covered with asbestos at least three-sixteenths of an inch in thickness and twenty-six gauge metal or with fire-resistive material of equivalent rating, except where such permanent cooking or warming apparatus is installed in accordance with requirements established by the department in conformity with generally accepted safety standards. There shall always be at least two feet of clear space above any exposed cooking surfaces of such apparatus.
- e. The owner shall, in every kitchenette constructed on or after July fourteenth, nineteen hundred sixty-seven, fire-retard the ceilings and walls, exclusive of doors.
- f. The owner of a dwelling shall provide every kitchen and kitchenette with gas or electricity or both for cooking and with a sink with running water, equipped with a waste and trap at least two inches in diameter.

ARTICLE 4
MINIMUM ROOM SIZES AND OCCUPANCY REGULATIONS

§27-2074 Minimum room sizes.

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- a. In all multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, every living room shall have a minimum height of eight feet, except as required for cellars and basements in section 27-2082 or 27-2083 of article five of this subchapter. In a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine pursuant to plans filed and approved prior to December ninth, nineteen hundred fifty-five, and classified and recorded in the department, at least one living room in an apartment shall have a minimum floor area of one hundred thirty-two square feet; if erected, constructed or altered pursuant to plans filed on or after December ninth, nineteen hundred fifty-five, one living room shall have a minimum floor area of one hundred fifty square feet. Every other living room of an apartment in a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine shall contain eighty square feet and have a least minimum dimension of eight feet, except:
- (1) A kitchen;
 - (2) A room complying with the light and ventilation requirements of subdivision a of section 27-2058 of article one of this subchapter, which has an opening of not less than sixty square feet into an immediately adjoining room, may have a minimum floor area of seventy square feet and a least horizontal dimension of seven feet;
 - (3) A dining space complying with the light and ventilation requirements of subdivision f of section 27-2058 of article one of this subchapter;
 - (4) One-half the number of bedrooms in an apartment containing three or more bedrooms may have a least minimum dimension of seven feet;
 - (5) A room in a class B multiple dwelling may have a floor area of sixty square feet and a least minimum dimension of six feet;
 - (6) A room in a lodging house, other than an apartment occupied by the owner, janitor, superintendent or caretaker, shall comply with the provisions of section sixty-six of the multiple dwelling law and rules and regulations issued pursuant thereto by the department.
- No living room, except dormitories in a lodging house, shall be subdivided or otherwise enclosed unless each such portion complies with the provisions of this section and those for light and ventilation required in section 27-2058 of article one of this subchapter.
- b. In a converted dwelling, every living room shall have a minimum height of eight feet, except that a living room located on the top story shall have a minimum height of seven feet in any part located more than six feet from the front of such room, and a living room in the basement or cellar shall comply with the requirements of subdivision b of section 27-2084 of article five of this subchapter. Except as provided in subdivision e of this section, a living room in an apartment shall have a least minimum dimension of six feet, a minimum floor area of sixty square feet and a minimum of five hundred and fifty cubic feet of air; and a living room in a rooming unit shall have not less than five hundred and fifty cubic feet of air, unless it is:
- (1) a kitchen;
 - (2) a noncomplying room which has an opening of not less than thirty-two and one-half square feet into an immediately adjoining room.
- c. In a new law tenement, every living room shall have a least horizontal dimension of seven feet, except that if a living room is either located in a dwelling erected prior to nineteen hundred twelve, or is a kitchen or a sleeping room for a maid in a fireproof tenement where a passenger elevator is operated, a least minimum dimension of only six feet is required. Except as provided in subdivision e, one living room shall have a minimum floor area of one

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hundred twenty square feet, and every other room shall contain seventy square feet if the minimum height of the room is nine feet, or eighty square feet if such room has a minimum height of eight feet, unless it is:

- (1) a kitchen;
- (2) a dining space complying with the light and ventilation requirements of section 27-2060 of article one of this subchapter. A dining space is not permitted in an apartment with less than three rooms.

No living room shall be subdivided or otherwise enclosed unless each such portion complies with the provisions of this section and those for light and ventilation required in section 27-2058 of article one of this subchapter for multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine.

- d. In an old law tenement, every living room shall have a minimum floor area of sixty square feet, except as provided in subdivision e.
- e. In a multiple dwelling erected prior to April eighteenth, nineteen hundred twenty-nine and altered pursuant to plans filed on or after December ninth, nineteen hundred fifty-five:
 - (1) At least one living room in an apartment and any room used for single room occupancy shall have a minimum floor area of one hundred fifty square feet.
 - (2) All other living rooms in an apartment, or in a rooming unit in a converted dwelling shall have a minimum floor area of seventy square feet, except that a room in a lodging house, other than a room in an apartment occupied by the owner, janitor, superintendent, or caretaker, shall comply with the provisions of section sixty-six of the multiple dwelling law and regulations issued pursuant thereto by the department.
- f. As used in subdivisions a and e of this section, an alteration shall mean the subdivision of any previously existing residential units; the combination of residential units with nonresidential space within the multiple dwelling, any of which results in new dwelling units or rooming units; or the conversion without physical change to a rooming unit, whenever permitted under the provisions of section 27-2077 of this article.
- g. Notwithstanding any of the provisions of this article, in every multiple dwelling the minimum acceptable floor area of rooms existing on December ninth, nineteen hundred fifty-five shall be the present lawful area, provided, however, that the rooms have not been altered since December ninth, nineteen hundred fifty-five.

§27-2075 Maximum permitted occupancy.

- a. No dwelling unit shall be occupied by a greater number of persons than is permitted by this section.
 - (1) Every person occupying an apartment in a class A or class B multiple dwelling or in a tenant-occupied apartment in a one- or two-family dwelling shall have a livable area of not less than eighty square feet. The maximum number of persons who may occupy any such apartment shall be determined by dividing the total livable floor area of the apartment by eighty square feet. For every two persons who may lawfully occupy an apartment, one child under four may also reside therein, except that a child under four is permitted in an apartment lawfully occupied by one person. No residual floor area of less than eighty square feet shall be counted in determining the maximum permitted occupancy for such apartment.

The floor area of a kitchen or kitchenette shall be included in measuring the total liveable floor area of an apartment but the floor area for private halls, foyers, bathrooms or water closets shall be excluded.

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- (2) A living room in a rooming unit may be occupied by not more than two persons if it has a minimum floor area not less than one hundred ten square feet in a rooming house, or one hundred thirty square feet in a single room occupancy.
- b. The maximum number of persons who may occupy a dormitory shall not exceed the occupancy permitted under section sixty-six of the multiple dwelling law, and the regulations issued thereunder by the department.
 - c. On written demand by the department, or by the owner when he or she rents a dwelling unit or any time thereafter, the tenant shall submit an affidavit setting forth the names and relationship of all occupants residing within the dwelling unit and the ages of any minors. In the event of an increase in the number of occupants, the tenant shall advise the owner and, if the owner so demands in writing, the tenant shall submit an affidavit, setting forth the pertinent information regarding such increase in occupancy.
 - d. In any case where the birth of a child or its attainment of the age of four causes the number of persons or children to exceed the maximum occupancy permitted in this section, such excess occupancy shall be permissible until one year after such event.
 - e. In every rooming unit, a sign shall be posted showing the maximum lawful occupancy. Such sign shall be made and installed in the manner and location prescribed by the department and shall be maintained at all times.

§27-2076 Prohibited occupancies.

- a. No kitchen shall be occupied for sleeping purposes.
- b. No rooming unit shall be occupied by a family with a child under the age of sixteen years, except that if a child is born to a family residing in such accommodations, the unlawful occupancy shall not commence until one year after the birth of such child. In any case where such an unlawful occupancy continues for ten days after the service of a notice of violation upon both the tenant and owner, the department may, in addition to all other remedies, institute a proceeding for an injunction pursuant to article four of subchapter five of this chapter to obtain an order requiring that such violation be remedied by eviction or removal of the tenant. The provisions of this subdivision shall not prohibit such occupancy (1) in rooming units operated without profit by an educational, religious or charitable institution of the type described and for the purposes set forth in subdivision a of section 27-2077 of this article, or (2) in a summer resort dwelling.

§27-2077 Conversions to rooming units prohibited.

- a. No rooming unit which was not classified and recorded as such in the department prior to May fifteenth, nineteen hundred fifty-four or converted to such use prior to April thirtieth, nineteen hundred fifty-six, shall be created in any dwelling, whether such conversion is effected with or without physical alterations, except for rooming units:
 - (1) Owned or controlled and operated by a hospital for occupancy by nurses and interns on its staff; or
 - (2) Owned and operated without profit by an educational, religious or charitable institution as a residence for the aged, or for working girls or women, or for working boys or men, or for delinquent, dependent or neglected children, or for students attending a school or college; or,
 - (3) approved by the commissioner of the department and created with the substantial assistance of loans, grants or subsidies from any federal, state or local agency or instrumentality; or

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(4) approved by the commissioner of the department and owned, operated or used by any federal, state or local agency or instrumentality or by a non-profit organization.

- b. When the ownership, operation or use by an institution or public agency for any of the purposes enumerated in subdivision a ceases, the certificate of occupancy shall expire.

§27-2078 Rental of rooms to boarders.

- a. A family may rent one or more living rooms in an apartment to not more than two boarders, roomers or lodgers, if every living room in such apartment has free and unobstructed access to each required exit from such apartment as provided in paragraphs (a), (b) and (c) of subdivision four of section two hundred forty-eight or paragraph (a) of subdivision one of section fifty-three of the multiple dwelling law, and if each such boarder, roomer or lodger has access to, and the right to use, at least one water closet, bath or shower and one washbasin as may be required in or for an apartment in this code.
- b. Where a tenant rents any part of an apartment in a multiple dwelling to more than two boarders, roomers or lodgers, such rental shall constitute a use of the apartment for single room occupancy and such rental in an apartment of a converted dwelling shall constitute an unlawful use as a rooming unit.
- c. A family may rent one or more living rooms in a private dwelling to not more than two boarders, roomers or lodgers, except as otherwise prohibited under the zoning resolution of the city of New York.

§27-2079 Single room occupancy. Every building containing rooming units, and each individual apartment used for single room occupancy, shall contain at least one water closet, washbasin and bath or shower for each six persons lawfully occupying rooming units therein, and for any remainder of less than six persons. At least one water closet shall be located on any floor containing a rooming unit. If there are not more than two rooms on the first story above the basement in a rooming house, no water closet is required on such floor but the occupants of the room shall be counted in determining the required number of facilities.

§ 27-2080 Maintenance of a registry in rooming house and single room occupancy buildings. An owner or lessee of any dwelling containing rooming house accommodations or any room or rooms used for single room occupancy shall keep a register in such dwelling in the custody of a responsible agent. The register shall show:

The name, signature, age, previous residence, date of arrival and date of departure of each tenant of rooming house accommodations or of a room or rooms used for single room occupancy; the room or rooms occupied by such tenant; and the names and ages of all persons residing in or occupying such room or rooms with such tenant. The owner or lessee of such a dwelling and the agent who maintains the register in such dwelling shall permit any officer or employee of the department or any inspector from any city department to inspect the register. It shall be unlawful for such owner or lessee knowingly to cause or permit any false entry to be made in such register. It shall be unlawful for any tenant to provide the owner or lessee of such dwelling with any false information on any matter required to be included in the register.

ARTICLE 5
OCCUPANCY OF CELLARS AND BASEMENTS

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§27–2081 Occupancy of cellars and basements in multiple dwellings; general requirements. No dwelling unit in a cellar or basement of a multiple dwelling shall be occupied unless:

- a. Such cellar or basement is properly lighted and ventilated to the satisfaction of the department; and
- b. Except for rooms occupied in accordance with section 27-2082 of this article, cellar walls and ceilings are constructed of light-colored material, or are thoroughly whitewashed or painted a light color and are so maintained; such whitewash or paint shall be renewed as required by the department, whenever necessary in the opinion of the department; and
- c. Such cellar or basement is free from dampness. In all new law tenements or multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, and in all other dwellings whenever the department determines that the subsoil conditions on the lot so require, the cellar or other lowest floor and all exterior walls shall be dampproofed and waterproofed to the height of the ground level; and
- d. Every yard, court, or other required open space on the same lot as the dwelling containing a dwelling unit in the cellar or basement is adequately drained to the satisfaction of the department; and
- e. Such dwelling unit complies with all of the applicable requirements of the multiple dwelling law and of this code for dwelling units which are not located in the cellar or basement of the dwelling, except where more restrictive standards are required in this article.

§27–2082 Occupancy of cellars and basements in any multiple dwelling with "adequate adjacent space". A dwelling unit in the cellar or basement of a multiple dwelling may be occupied if all of the following requirements are met:

- a. Every room has a minimum height of eight feet in every part in dwellings erected after July first, nineteen hundred fifty-seven, and of seven feet in dwellings erected prior thereto.
- b. Every room has at least one-half of its height in every part above the highest level of an "adequate adjacent space." As used in this section an "adequate adjacent space" is an area outside the dwelling which:
 - (1) is thirty feet in its least dimension,
 - (2) is located on the same lot as the dwelling or in a street or public place,
 - (3) is open and unobstructed, except as provided in subdivision nine of section twenty-six of the multiple dwelling law, and
 - (4) abuts at the same level, or directly below, every part of the exterior walls of every dwelling unit located on the same floor.
- c. The bottom of such "adequate adjacent space" is at a level no higher than six inches below the sill of any required window opening on such space.
- d. Whenever the floor of any part of the dwelling unit is below the level of such "adequate adjacent space," either the ceiling, walls and partitions of the dwelling unit are fire retarded or the dwelling unit is equipped with a sprinkler system in a manner satisfactory to the department.
- e. The entire cellar or basement in which the dwelling unit is located complies with all requirements of the multiple dwelling law with respect to fire protection and to means of egress, including cellar and basement stairs and cellar entrances.
- f. A cellar occupied hereunder for dwelling purposes shall be counted as a story for the purpose of the requirements of the multiple dwelling law with respect to means of egress, but shall

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not be counted as a separate story for the purpose of determining when a dwelling must be of fireproof construction.

§27–2083 Occupancy of cellars and basements in multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine. Except as provided in subdivision d of section 27-2082 of this article, no dwelling unit in the cellar or basement of a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine may be occupied unless:

- a. Every room in a dwelling erected after July fourteenth, nineteen hundred sixty-seven has a minimum height of eight feet, and in dwellings erected prior thereto has a minimum height of nine feet in every part, except that four beams each not more than twelve inches wide may extend a minimum of six inches below the basement ceiling.
- b. Every part of the ceiling of every such room is above the height of the curb level directly in front of each such part by not less than:
 - (1) Four feet six inches for a room in a dwelling unit located in the front of the dwelling, or
 - (2) Two feet for a room in a dwelling unit located in the rear of the dwelling. If the yard is sixty feet or more in depth, this requirement does not apply.

Height above curb level is measured on the street on which the dwelling fronts.

- c. The level of any yard or court upon which a required window opens conforms to the requirements of subdivision eight of section twenty-six of the multiple dwelling law.
- d. Every room has at least one window opening upon a street, yard or court and is a part of a dwelling unit containing at least one room with a window opening upon a street or yard.
- e. A required window in every room shall comply with the provisions of subdivision c of section 27-2058 of article one of this subchapter, except that the total area of all windows in such room shall be at least one-eighth of the floor area of the room and the top of each window shall be located not more than one foot from the ceiling.
- f. Except as provided in subdivision g, not more than one apartment, as recorded in the certificate of occupancy, shall be located in the cellar unless the yard is sixty feet or more in depth. Such apartment shall contain no more than five rooms and a bathroom and shall be occupied either by the janitor or a rent-paying tenant, if no member of the family is under the age of sixteen years. No required window in any room of such apartment shall open upon a court less than five feet in width.

Every part of the apartment shall be:

- (1) Within twenty-five feet of the inner surface of the front or rear wall of the dwelling, or
 - (2) Have a window opening upon a court of the dimensions provided in subdivision seven of section twenty-six of the multiple dwelling law but in no event shall such court be less than ten feet in width.
- g. A maximum of three additional rooms may be located in the cellar exclusively for the use of persons regularly and continuously employed in the maintenance of such dwelling. Each such room:
 - (1) Shall be completely separated from any other room or private hall;
 - (2) Shall have access to at least one bathroom without passing through the apartment provided for in subdivision f; and
 - (3) Shall comply with the provisions of subdivision f for required windows.

§27–2084 Occupancy of cellars and basements in converted dwellings.

- a. Except as provided in 27-2082 of this article, no dwelling unit in the cellar of a converted dwelling may be occupied for living purposes unless:

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- (1) The yard adjoining such dwelling unit; has a minimum depth of thirty feet or more at every point; is open and unobstructed except as permitted by subdivision nine of section twenty-six of the multiple dwelling law; and abuts the exterior wall of such dwelling at a level no higher than the floor of any room contained in the dwelling unit; and
- (2) The department determines that the dwelling unit is habitable.

Such a cellar shall be deemed a basement for the purpose of all requirements of the multiple dwelling law and of this code.

- b. Except as provided in section 27-2082 of this article, no dwelling unit in the basement of a converted dwelling may be occupied unless:
 - (1) Every living room has a minimum height of seven feet in every part; and
 - (2) Every living room has at least one window which complies with the provisions of subdivision b of section 27-2059 of article one of this subchapter, except that the top of at least one window shall be a minimum of six feet above the floor, or if the room does not comply with the foregoing provisions of this paragraph two, it complies with the provisions of subdivision c of section 27-2059 of article one of this subchapter.
- c. The basement of a dwelling converted in accordance with the provisions of subdivision four of section one hundred seventy-seven of the multiple dwelling law may be occupied only if the dwelling is classified and recorded in the department as such a converted dwelling prior to January first, nineteen hundred sixty-six.

§27-2085 Occupancy of cellars and basements in new law tenements. Except as provided in section 27-2082 of this article, no dwelling unit in the cellar or basement of a new law tenement may be occupied unless:

- a. Every room has a minimum height of nine feet in every part.
- b. Every part of the ceiling of every such room is above the height of the curb level directly in front of each such part by not less than:
 - (1) Four feet six inches for a room in a dwelling unit located in the front of a dwelling, or
 - (2) Two feet for a room in a dwelling unit located in the rear of a dwelling.If the yard is sixty feet or more in depth this requirement does not apply.
Height above curb level is measured on the street on which the dwelling fronts.
- c. The level of any yard or court upon which such a room opens conforms to the requirements of subdivision eight of section twenty-six of the multiple dwelling law.
- d. Every room has at least one window opening upon a street, yard or court and is a part of a dwelling unit containing at least one room with a window opening upon a street, yard or outer court with either:
 - (1) A minimum width of eighteen feet and a maximum depth of thirty feet, or
 - (2) A depth which does not exceed the width by more than one-half.
- e. A required window shall comply with the provisions of subdivision b of section 27-2060 of article one of this subchapter, except that the total area of all windows in a room shall be at least one-eighth the floor area of the room and the top of each window shall be located not more than one foot from the ceiling.
- f. Not more than one apartment, as recorded either in the certificate of occupancy or legally existing and recorded in the department prior to nineteen hundred twenty-nine, shall be located in the cellar unless the yard is sixty feet or more in depth. Such dwelling unit shall contain no more than five rooms and a bathroom and shall be occupied either by the janitor or a rent-paying tenant if no member of the family is under the age of sixteen years. No required window in any room of such apartment shall open upon a court less than five feet

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six inches in width. Every part of such dwelling unit shall be located within twenty-five feet of the inner surface of the front or rear wall of the dwelling or shall have a window opening upon a court not less than twelve feet in width.

§27-2086 Occupancy of cellars and basements in old law tenements.

- a. No dwelling unit in the cellar of an old law tenement may be occupied unless it complies with the requirements of sections 27-2082, 27-2083, 27-2085 of this article or all of the following provisions:
 - (1) Every room has a minimum height of eight feet in every part.
 - (2) In every room of a dwelling unit located at the front of the dwelling, every part of the ceiling is at least four feet above the surface of the street in front of every such part.
 - (3) In a dwelling unit located in the rear, every room has at least one-half of its height in every part above the highest level of an adjoining space which: Abuts every part of the exterior wall of such room; has a minimum dimension of thirty feet measured at a right angle to the outer surface of such wall; and is open and unobstructed, except as permitted in subdivision nine of section twenty-six of the multiple dwelling law.
 - (4) Every room has at least one window opening upon a street, yard or the adjoining space required in paragraph three and at least one-half of every such window shall open.
- b. No dwelling unit in the basement of an old law tenement may be occupied unless it complies with the requirements of sections 27-2082, 27-2083, 27-2085 of this article, subdivision a of this section, or all of the following provisions:
 - (1) Every room has a minimum height of seven feet, six inches in every part.
 - (2) Every room has at least one window opening upon a street, a yard with a minimum depth of twelve feet or a court with dimensions of not less than six feet by twelve feet. Such room is a part of a dwelling unit containing at least one room with a window opening upon a street or such a yard.
 - (3) At least one-half of a required window shall open.
- c. A room in the basement of an old law tenement may be occupied by a family solely in conjunction with their occupancy of the entire story above, if such room has a minimum height of seven feet in every part and is not occupied for sleeping purposes.

§27-2087 Occupancy of cellars and basements in one- and two-family dwellings.

a. Cellar occupancy:

No room in the cellar of a one- or two-family dwelling shall be rented and no member of the family or families occupying the dwelling shall use such room for sleeping, eating or cooking purposes, except that a secondary kitchen for accessory cooking may be located in the cellar.

b. Use of basement by occupants of the dwelling:

A room in the basement of a one- or two-family dwelling may be occupied for living purposes by members of the family or families in conjunction with their occupancy of the dwelling if the following conditions are met:

- (1) Such room complies with all of the requirements of this code for rooms which are not located in the cellar or basement; except that the minimum ceiling height required in one family dwellings shall be seven feet.
 - (2) Whenever the department determines that the subsoil conditions on the lot so require, the basement or other lowest floor and all exterior walls as high as the ground level shall be dampproofed and waterproofed.
- c. Rental of basement:

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An apartment, in the basement of a one-family dwelling may be occupied, unless otherwise prohibited under the zoning resolution of the city of New York, if it meets the requirements of subdivision b and all of the following conditions:

- (1) Such basement occupancy is limited to one family which, for the purposes of this section, shall not include boarders.
 - (2) Every room shall have a window complying with the requirements of section 27-2062 of article one of this subchapter.
 - (3) The bottom of any yard or other required open space shall be no higher than six inches below the window sill of any required window in any room.
- d. Conversion to multiple dwelling. No private dwelling of more than three stories in height which was erected after April eighteenth, nineteen hundred twenty-nine shall be converted to a multiple dwelling unless it complies with all the provisions of the multiple dwelling law applicable to dwellings erected after April eighteenth, nineteen hundred twenty-nine.

§27–2088 Powers of the board of standards and appeals; cellar and basement occupancies. The board of standards and appeals shall have those powers and authority as set forth in section three hundred ten of the multiple dwelling law.

ARTICLE 6 VACANT MULTIPLE DWELLINGS

§27–2089 Requirements for reoccupancy of vacant multiple dwellings.

- a. In every multiple dwelling, where all apartments, suites of rooms and single room units, at any time after July fourteenth, nineteen hundred sixty-seven:
 - (1) Became untenanted for a period of sixty days or more, or
 - (2) Were, or shall become, untenanted by reason of having been vacated by the department under the provisions of the administrative code or any provision of the multiple dwelling law on the ground that such dwelling was or is deemed unfit for human habitation or dangerous to life and health, it shall be unlawful for the owner of such dwelling to cause or permit same to be used in whole or in part for living purposes (other than by a janitor, superintendent or resident caretaker) until such dwelling is made to comply with the applicable requirements of the administrative code and the multiple dwelling law affecting the kind and class of such structure. For the purpose of determining whether any such dwelling is untenanted, occupancy of same by a janitor, superintendent or resident caretaker shall not be counted. It shall be unlawful for the owner of any such dwelling to cause or permit same to be used in whole or in part for living purposes (other than by a janitor, superintendent or resident caretaker) until (1) an application and plan for the work required by this article have been filed with and approved by the department, (2) such work has been completed by the owner and approved by the department, and (3) a new certificate of occupancy has been obtained.
- b. The provisions of this article shall not apply to:
 - (1) any multiple dwelling which is vacant or partly vacant because of a current alteration being performed under application and plan approved by the department for the elimination of interior rooms or the installation of sanitary facilities as required by the provisions of the administrative code or the multiple dwelling law, or

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- (2) any multiple dwelling which is vacant or partly vacant by reason of being used as a summer resort dwelling as defined in paragraph forty six of subdivision a of section 27-2004 of article one of subchapter one of this chapter, or
- (3) any old law or new law tenement for which no certificate of occupancy has been issued, two or more apartments are being combined to create larger residential units, the total legal number of families within the building is being decreased and the bulk of the building is not being increased.

SUBCHAPTER 4
ADMINISTRATION

ARTICLE 1
POWERS AND FUNCTIONS OF THE DEPARTMENT

§27-2090 **Power to make regulations.** The department shall have power to promulgate such regulations as it may consider necessary or convenient to interpret or carry out any of the provisions of this code.

§27-2091 **Power to issue orders.**

- a. The department shall have power to issue notices and orders to secure compliance with the requirements of this code, of the multiple dwelling law, and of other state and local laws that impose requirements on dwellings.
- b. The failure to comply with a notice or order of the department issued pursuant to this code within the time provided for such compliance in the order shall be dealt with in accordance with the provisions of this code. Nothing contained herein shall, however, limit or render inapplicable other provisions of the administrative code relating to the enforcement of orders of the department or commissioner of the department under other applicable provisions of law.
- c. The department shall have the power to issue an order to correct any underlying condition existing in a building that has caused or is causing a violation of this code, of the multiple dwelling law, or of other state and local laws that impose requirements on dwellings.
 - 1. Such order may be issued to an owner of a building that meets the criteria promulgated by the department in rules.
 - 2. The department may file such order in the office of the county clerk in the county in which the building is located. Where such order has been filed by the department and complied with by the owner, the department shall file a rescission of the order with such county clerk.
 - 3. An owner shall comply with such order and submit such documentation as the department may require indicating compliance with the order no later than four months after the order has been issued, provided, however, that the department may extend the deadline for compliance by a period not to exceed two months, in accordance with criteria promulgated by the department in rules. If such owner fails to comply with such order, the department may perform all or part of the work required by such order.
 - 4. All amounts for expenses incurred by the department pursuant to this subdivision that remain unpaid by an owner, shall constitute a debt recoverable from the owner and a lien

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upon the building and lot, and upon the rents and other income thereof. The provisions of article eight of subchapter five of this code shall govern the effect and enforcement of such debt and lien. The department may serve a statement of account upon an owner for such amounts pursuant to section 27-2129 of this code.

5. Notwithstanding any provision of this code to the contrary, an owner who fails to comply with an order issued pursuant to this subdivision shall be subject to a civil penalty of one thousand dollars for each dwelling unit that is the subject of such order, provided, however, that the total amount of such penalty shall not be less than five thousand dollars.

§27-2092 Power to hold hearings; subpoena power; production of documents. For the purpose of enforcing the provisions of this code, considering the desirability or scope of any proposed rule or regulation hereunder, and for the purpose of making any determination required to be made by the department under this code, the department shall have power to conduct inspection, to hold public or private hearings, to subpoena witnesses, administer oaths and take testimony, and compel the production of books, papers, records and documents. The commissioner may designate himself or herself or one or more of the members, officers or employees of the department to act as a hearing board, to exercise any one or more of the powers listed, and the department may promulgate regulations to assure a lawful, orderly and fair procedure before such hearing board. Every person who shall appear before such a hearing board shall have the right to be represented by counsel of his or her own choosing.

§27-2093 Certification of no harassment with respect to single room occupancy multiple dwellings.

- a. For the purposes of this section, "harassment" shall mean any conduct by or on behalf of an owner of a single room occupancy multiple dwelling that includes:
 - (1) the use or threatened use of force which causes or is intended to cause any person lawfully entitled to occupancy of a dwelling unit in such multiple dwelling to vacate such unit or to surrender or waive any rights in relation to such occupancy;
 - (2) the interruption or discontinuance of essential services which (i) interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of a dwelling unit in the use or occupancy of such dwelling unit and (ii) causes or is intended to cause such person lawfully entitled to occupancy of such dwelling unit to vacate such unit or to surrender or waive any rights in relation to such occupancy;
 - (3) the failure to comply with the provisions of subdivision c of section 27-2140 of article seven of subchapter five of this code which causes or is intended to cause such person lawfully entitled to occupancy of such dwelling unit to vacate such unit or to waive any rights in relation to such occupancy; or
 - (4) any other conduct which prevents or is intended to prevent any person from the lawful occupancy of such dwelling unit or causes or is intended to cause such person lawfully entitled to occupancy of such dwelling unit to vacate such unit or to surrender or waive any rights in relation to such occupancy including but not limited to removing the possessions of any occupant from the dwelling unit; removing the door at the entrance to the dwelling unit; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

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- b. For the purposes of any hearing held pursuant to this section, any of the acts or omissions described in paragraphs, one, two, three and four of subdivision a of this section which are committed at a single room occupancy multiple dwelling shall be presumed to be committed by or on behalf of the owner of such multiple dwelling and it shall be presumed that such acts or omissions were committed with the intent to cause a person lawfully entitled to occupancy of a dwelling unit in such multiple dwelling to vacate such unit or to surrender or waive a right in relation to such occupancy.
- c. The commissioner shall certify whether there has been no harassment of the lawful occupants of a single room occupancy multiple dwelling, as such term is defined in section 27-198 of article nineteen of subchapter one of the building code, during the thirty-six month period prior to the date of the submission of an application for a certification of no harassment by an owner of such multiple dwelling. With respect to an application for a certification of no harassment which is submitted pursuant to paragraph three of subdivision b of section 27-198 of article nineteen of subchapter one of the building code, the date of submission of such application shall be deemed to be the date of submission of an application for plan approval.
- d. An application for certification of no harassment shall be in such form and shall contain such information and provisions as shall be prescribed by the commissioner including, but not limited to, consent by the applicant to access to the premises by governmental agencies, and shall be determined in accordance with the following procedure:
 - (1) Upon the receipt of an application for a certification of no harassment, the commissioner shall publish notice in such publication as the commissioner deems appropriate for a period of seven consecutive days, shall mail notice to the owner of record, such occupants as the department shall identify, such other interested persons as the department shall identify, the local community board and appropriate government agencies and shall post notice in a conspicuous place on the premises of the multiple dwelling for which the certification is sought.
 - (2) The notice shall be in such form as shall be prescribed by the commissioner and shall state, in English and whatever other language the commissioner deems appropriate:
 - (a) the location and general description of the multiple dwelling for which the certification is sought;
 - (b) a description of the certification procedure and its purpose;
 - (c) the period of time for which certification is to be made;
 - (d) in plain language, a description of conduct constituting harassment; and
 - (e) that any occupants or former occupants of the multiple dwelling for which such certification is sought and other interested persons, government agencies and the local community board, are invited to submit their comments within thirty days of the date of such notice in writing or orally at a designated location.
 - (3) Upon the expiration of such thirty day comment period, the commissioner may (i) determine that no harassment has occurred within the stated period of time and forthwith grant such certification, (ii) determine that a waiver of certification may be granted pursuant to subdivision e of this section and forthwith grant such waiver, or (iii) deny such certification without a prior hearing if there has been a finding by the office of rent control, the conciliation and appeals board or any court having jurisdiction that there has been harassment, unlawful eviction or arson by or on behalf of the owner at the multiple dwelling for which certification is sought during the stated period of time; or (iv) where there has been no prior determination of harassment, unlawful eviction or arson by or on

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behalf of the owner, provide that a hearing be held in the manner provided in section 27-2092 of this article if the commissioner has reasonable cause to believe that harassment has occurred within such stated period of time and that a waiver of certification may not be granted. At such hearing, the owner of the multiple dwelling for which such certification is sought, shall have the opportunity to be heard by the commissioner or a designee prior to the granting or denial of certification or of a waiver thereof. Notice of such hearing shall be given to the applicant and to other interested parties, governmental agencies and local community board in the manner to be prescribed by rules and regulations of the commissioner. Within forty-five days after such hearing, the commissioner shall either grant or deny such certification or waiver thereof.

- (4) If certification or a waiver thereof is denied, notice of such denial accompanied by written findings indicating the grounds for such denial shall be mailed to the owner of record and shall be filed in the office of the city register. Such determination shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.
 - (5) Neither such certification nor a waiver thereof shall be granted unless the applicant submits a sworn statement, in such form as the commissioner shall prescribe, by all the owners of the multiple dwelling representing that there will be no harassment of the occupants of such multiple dwelling by or on behalf of such owners. The corporation counsel may institute any action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of this representation and agreement. Nothing contained herein shall preclude an occupant of such multiple dwelling from applying on his or her own behalf for similar relief.
 - (6) The commissioner shall promulgate rules and regulations to establish procedures relating to applications for and the issuance of supplemental certifications as required by paragraph nine of subdivision b of section 27-198 of the code.
- e. The commissioner may grant a waiver of certification of no harassment although the commissioner determines that harassment has occurred at the multiple dwelling for which such certification is sought during the thirty-six month period prior to the date of the submission of an application for a certification of no harassment if the commissioner finds that:
- (1)
 - (a) the owner of record of the multiple dwelling with respect to which such certification is sought was the owner of record of such multiple dwelling prior to May fifth, nineteen hundred eighty-three or had entered into a contract of sale for the purchase of such multiple dwelling which was recorded prior to such date or, with respect to a certification proceeding where the alterations sought to be performed are of the type prescribed by regulation of the commissioner pursuant to subdivision b of section 27-198 of article nineteen of subchapter one of the building code, the owner of record of such multiple dwelling was the owner of record of such multiple dwelling prior to the date of the first publication of the regulations requiring certification for such type of alterations or had entered into a contract of sale for the purchase of such multiple dwelling which was recorded prior to such date;
 - (b) such owner was not the owner of such multiple dwelling during any period of time in which such harassment occurred and did not at such multiple dwelling (i) otherwise engage or participate in such harassment; or (ii) with intent that harassment be performed, agree with one or more persons to engage in or cause the performance of

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- harassment; or (iii) with intent that another person engage in conduct constituting harassment, solicit, request, command, importune or otherwise attempt to cause such person to engage in conduct constituting harassment; and
- (c) such owner acquired title pursuant to a bona fide transaction that is not intended to evade the provisions of this section; or
- (2) the owner acquired the multiple dwelling by sale pursuant to foreclosure of a mortgage or pursuant to a deed in lieu of foreclosure of a mortgage; provided, however, that such conveyance was a bona fide transaction for the purpose of enforcing the debt and not intended to evade the provisions of this section and either
- (i) a certification of no harassment or waiver thereof was granted with respect to such multiple dwelling within a sixty day period prior to the date of the recording of such mortgage and no suspension or rescission thereof was recorded prior to such date; or
- (ii) such mortgage was recorded prior to May fifth, nineteen hundred eighty-three, or, if such owner is a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section four of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or by at least twenty savings and loan associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, a commitment for such mortgage was made prior to May fifth, nineteen hundred eighty-three.
- (3) In determining whether such transaction was bona fide, the commissioner may consider whether at such multiple dwelling or any other such multiple dwelling such owner did
- (i) otherwise engage or participate in harassment; or
- (ii) with intent that harassment be performed, agree with one or more persons to engage in or cause the performance of harassment; or
- (iii) with intent that another person engage in conduct constituting harassment, solicit, request, command, importune or otherwise attempt to cause such person to engage in conduct constituting harassment. The commissioner may also consider the relationship between the parties to the transaction.
- (4) A waiver of a certification pursuant to this subdivision shall state the findings of the commissioner.
- f.
- (1) The commissioner may rescind a certification of no harassment or a waiver thereof granted with respect to the alteration or demolition of a multiple dwelling if the commissioner finds that harassment has occurred at the multiple dwelling with respect to which such certification or waiver thereof was issued after the period of time covered by such certification but prior to the commencement of substantial work pursuant to an alteration permit or demolition permit issued on the basis of such certification or waiver thereof.
- (2) If the commissioner has reasonable cause to believe that such harassment has occurred, the commissioner shall suspend the certification of no harassment or waiver thereof and upon the request of the commissioner, the commissioner of buildings shall not approve any plans or issue an alteration or demolition permit with respect to the alteration or demolition of such multiple dwelling or, if such plans have been approved and an

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alteration or demolition permit has been issued with respect to such alteration or demolition, issue a stop-work notice and order pursuant to section 27-227 of article twenty-four of subchapter one of the building code. Notice of such suspension shall be mailed to the owner of record of such multiple dwelling and shall be filed with the city register.

- (3) As soon as reasonably possible, but not later than thirty days after such suspension, the commissioner shall hold a hearing in the manner provided in section 27-2092 of this article upon appropriate notice and shall determine whether to rescind such certification; provided, however, that if, prior to the commencement of substantial work, the owner has been found by the office of rent control, the conciliation and appeals board or any court having jurisdiction, to have engaged in harassment, unlawful eviction or arson at the multiple dwelling, the commissioner may rescind such certification without holding a hearing. At such hearing the owner shall have an opportunity to be heard by the commissioner or a designee of the commissioner.
 - (4) If the commissioner determines not to rescind such certification, the commissioner shall notify the commissioner of buildings of such determination and any stop-work notice and order issued by the commissioner of buildings pursuant to paragraph two of this subdivision shall be vacated immediately. Notice of such determination shall be mailed to the owner of record of such multiple dwelling and filed with the city register.
 - (5) If the commissioner determines that such certification shall be rescinded, notice of such determination accompanied by written findings indicating the grounds for such determination shall be provided to the commissioner of buildings and shall be mailed to the owner of record of such multiple dwelling and filed with the city register. Such determination shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.
- g. For the purpose of any subsequent certification proceeding with respect to such multiple dwelling pursuant to this section, the granting of a certification of no harassment or a waiver thereof for any period of time shall be conclusive proof only for the purposes of this section that either no harassment occurred within the time period covered by such certification or that the waiver of such certification for such period of time was appropriate.
 - h. The commissioner is authorized to establish and collect reasonable fees and charges from applicants for the administrative expenses incurred by the department for the certification proceedings prescribed in this section, including costs for publication and notices.

§27-2093.1 **Certification of no harassment with respect to pilot program buildings.**

- a. Definitions. As used in this section the following terms have the following meanings:

Building qualification index. The term "building qualification index" means an index created by the department and promulgated in rules to evaluate prospective pilot program buildings for distress based on the department's records of open and closed hazardous and immediately hazardous violations of the housing maintenance code, records of paid and unpaid liens for expenses incurred by the department for the repair or elimination of dangerous conditions under the emergency repair program, change of ownership or any other factor that reasonably indicates distress and would qualify such building for the certification of no harassment pilot program as determined by the department.

Certification of no harassment. The term "certification of no harassment" means a certification by the department that no harassment of any lawful occupants of a pilot program

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building occurred during the 60 month period prior to the filing of an application for such certification pursuant to this section.

City-sponsored neighborhood-wide rezoning area. The term "city-sponsored neighborhood-wide rezoning area" means an area of the zoning map for which:

- (1) amendments to the zoning regulations pertaining to such area were proposed by the City;
- (2) the city planning commission approved or approved with modifications such amendments for a matter described in paragraph 3 of subdivision a of section 197-c of the charter;
- (3) the city planning commission decision was approved or approved with modifications by the council pursuant to section 197-d of the charter and is not subject to further action pursuant to subdivision e or f of such section;
- (4) the zoning map amendments increased the permitted residential floor area ratio within the rezoned area by at least 33 percent; and
- (5) the amendments involved at least 10 blocks of real property in such area.

Covered categories of work. The term "covered categories of work" has the meaning set forth in section 28-505.3.

Harassment. The term "harassment" has the meaning set forth in subdivision 48 of section 27-2004.

Low income housing. The term "low income housing" means dwelling units that, upon initial rental and upon each subsequent rental following a vacancy, is affordable to and restricted to occupancy by individuals or families whose household income does not exceed an average of 50 percent of the area median income, adjusted for family size, at the time that such household initially occupies the dwelling unit, provided that with respect to low income housing units provided pursuant to a cure agreement in accordance with subdivision e of this section, one-third of such low income housing units shall be available at 40 percent of the area median income, one-third of such units shall be available at 50 percent of the area median income and one-third of such units shall be available at 60 percent of the area median income.

Pilot program building. The term "pilot program building" means a multiple dwelling included on the pilot program list.

Pilot program list. The term "pilot program list" means a list of multiple dwellings with six or more dwelling units meeting the criteria set by the department in accordance with subdivision b. Such multiple dwelling shall remain on the pilot program list for 60 months, or until expiration of the local law that added this section, whichever is later. Such list shall be published and maintained on the websites of the department and the department of buildings. Such list shall not include any multiple dwelling that:

- (1) is subject to any other provision of law or rules, including the zoning resolution, that requires a certification of no harassment as a condition to obtaining approval of construction documents or an initial or reinstated permit in connection therewith from the department of buildings;
- (2) is the subject of a program approved by the commissioner and related to the rehabilitation or preservation of a single room occupancy multiple dwelling or the provision of housing for persons of low or moderate income, other than a program consisting solely of real property tax abatement or tax exemption pursuant to the real

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- property tax law, and has been exempted from the provisions of this section by the commissioner;
- (3) contains dwelling units that are required to be and actually are restricted based on income pursuant to an agreement pursuant to the mandatory inclusionary housing program or the voluntary inclusionary housing program and the income-restricted units that are required pursuant to such agreement are occupied at the time of application for a certification of no harassment;
 - (4) in an exempt luxury hotel as defined by the department in rules;
 - (5) is a rent regulated institutional residence, the occupancy of which is restricted to non-profit institutional use exempted from the requirements of this section by the department;
 - (6) is owned by the city or other governmental entity;
 - (7) is a clubhouse; or
 - (8) is a college or school dormitory.

Tenant harassment prevention task force. The term "tenant harassment prevention task force" or "task force" means representatives of city and state agencies that combine to combat tenant harassment through coordinated enforcement actions.

- b. Pilot program list. The department shall compile and publish a pilot program list. The criteria used to select buildings to be included on the pilot program list shall be promulgated by the department in rules and shall be limited to:
 - (1) Buildings with scores on the building qualification index indicating significant distress as determined by the department, and located within:
 - (i) Bronx community district 4,
 - (ii) Bronx community district 5,
 - (iii) Bronx community district 7,
 - (iv) Brooklyn community district 3,
 - (v) Brooklyn community district 4,
 - (vi) Brooklyn community district 5,
 - (vii) Brooklyn community district 16,
 - (viii) Manhattan community district 9,
 - (ix) Manhattan community district 11,
 - (x) Manhattan community district 12,
 - (xi) Queens community district 14, and
 - (xii) Any community district where any part of such district is subject to a city-sponsored neighborhood-wide rezoning after the date of enactment of the local law that added this section.
 - (2)
 - (i) Buildings where a full vacate order has been issued by the department or the department of buildings, or
 - (ii) buildings where there has been active participation in the alternative enforcement program for more than four months since February 1, 2016; and
 - (3) Buildings where there has been a final determination by New York state homes and community renewal or any court having jurisdiction that one or more acts of harassment were committed at such building within the 60 months prior to the effective date of the local law that added this section or on or after the effective date of the local law that added this section. The department shall establish a method of identifying buildings

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where there have been adjudications of harassment after the effective date of the local law that added this section, and may request the cooperation of the tenant harassment prevention task force to establish and effectuate such method. The department shall add a building to the pilot program list within 30 days after it is identified in accordance with such method.

c. Certification of no harassment required.

- (1) In accordance with article 505 of chapter 5 of title 28, a pilot program building shall be required to obtain a certification of no harassment or waiver of such certification as a condition to obtaining approval of construction documents or an initial or reinstated permit in connection therewith by the department of buildings for any covered categories of work.
- (2) Except as otherwise provided in this section, if a certification of no harassment is denied no such approval or permit shall be issued by the department of buildings for 60 months after such denial.

d. Application.

- (1) An application for a certification of no harassment shall be in such form and shall contain such information as shall be prescribed by the department.
- (2) Upon the receipt of an application for a certification of no harassment, the department shall publish notice in a publication of general circulation for a period of seven consecutive days, shall mail notice to the owner at the address provided on the application and the address provided in the last registration with the department, as well as to the owner who appears on the last deed recorded on the records of the department of finance, such occupants as the department shall identify, any community group designated by the department to survey the building, such other interested persons as the department shall identify, the local community board, city council member representing the district in which such building is situated, and appropriate government agencies, and shall post notice in a conspicuous place at the pilot program building for which the certification of no harassment is sought.
- (3) The notice shall be published in English and in any other language prevalent in the district, as determined by the commissioner, and shall include a statement that such notice is available in any covered language, as defined in subdivision j of section 8-1002. Such notice shall also contain:
 - (i) the location and general description of the pilot program building for which the certification is sought;
 - (ii) a description of the certification procedure and its purpose;
 - (iii) the contact information for the community group designated by the department to survey the building and its occupants;
 - (iv) the period of time covered by the inquiry, which shall be 60 months prior to the filing of the application for a certificate of no harassment pursuant to this section;
 - (v) a description of conduct constituting harassment; and
 - (vi) that the owner and any occupants or former occupants of the pilot program building for which such certification is sought and other interested persons, government agencies and the local community board, are invited to submit their comments within 45 days of the date of such notice in writing or orally at a designated location, provided that the department may, for good cause, extend the time for the submission of such comments for an additional 15 days.

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- (4) The department may designate a community group to conduct a survey of the occupants of the pilot program building with respect to harassment in the pilot program building and to report its findings to the department. The community group shall provide a copy of the notice required by this subdivision to occupants. Based upon the findings of such community group or the department's review of records and other data, the department may determine that it is necessary to conduct a further investigation.
 - (5) Upon the completion of any such survey and further investigation, the department may:
 - (A) determine that no harassment has occurred within the state period of time and forthwith grant such certification of no harassment.
 - (B) deny a certification of no harassment without a hearing if there has been a finding by New York state homes and community renewal or any court having jurisdiction that there has been harassment, unlawful eviction, or arson by or on behalf of the owner during the state period of time; or
 - (C) where there has been no prior determination of harassment, unlawful eviction, or arson by or on behalf of the owner, provide that a hearing be held at the office of administrative trials and hearings if the department has reasonable cause to believe that harassment has occurred within such state period of time. The owner of the pilot program building for which a certification of no harassment is sought shall have the opportunity to be heard at such hearing prior to the granting or denial of such certification. The department may receive testimony from tenants, community groups and any other interested parties. Notice of such hearing shall be given to the applicant in the manner prescribed by the office of administrative trials and hearings. Within 45 days after the office of administrative trials and hearings issues a report and recommendation, the department shall either grant or deny such certification of no harassment.
 - (6) If a certification of no harassment is denied, notice of such denial accompanied by written findings indicating the grounds for such denial shall be mailed to the applicant and owner of record and shall be filed in the office of the city register or the Richmond county clerk.
 - (7) A final determination on an application for a certification of no harassment shall be subject to review pursuant to article 78 of the civil practice law and rules.
 - (8) Where the department has denied or rescinded a certification of no harassment for a pilot program building the department of buildings shall not approve construction documents or issue or renew permits for covered categories of work in such building for a period of 60 months after such denial or rescission unless the owner enters into an agreement with the department to cure the record of harassment in accordance with subdivision e.
 - (9) Before a certification of no harassment may be granted, an applicant shall submit a sworn statement, in such form as the department shall prescribe, by all the owners of the pilot program building representing that there will be no harassment of the occupants of such building by or on behalf of such owners. The corporation counsel may institute any action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of this representation and agreement. Nothing contained herein shall preclude an occupant of such pilot program building from applying on his or her own behalf for similar relief.
- e. Cure agreement.

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- (1) An agreement to cure the record of harassment at a pilot program building shall require the owner to engage in or provide for, through an entity identified by the department as capable of developing new affordable housing in the same community district as the pilot program building, the construction of floor area of low income housing, either within the pilot program building, in a new building at the same site as the pilot program building or such same community district, in accordance with rules promulgated by the department, provided that such owner shall construct or provide within such building or community district no less than the greater of:
 - (i) 25 percent of the total residential floor area of such pilot program building undergoing covered work in which harassment has occurred, or
 - (ii) 20 percent of the total floor area of any new or pilot program building undergoing covered work on the lot containing the pilot program building subject to such agreement.
 - (2) The owner shall record and index a restrictive declaration with respect to such agreement with the city register or the Richmond county clerk.
 - (3) The department shall promulgate rules providing for the administration and enforcement of such an agreement, and shall establish criteria for such an agreement to ensure the effective implementation thereof. Such rules shall include a requirement that lawful tenants who resided in the pilot program building during the 60 month period prior to the determination to deny the certification of no harassment or prior to the rescission of a certification of no harassment shall have priority in the allocation of low income units constructed by the owner within the pilot program building or in a new building at the same site as the pilot program building if they otherwise qualify for such units.
 - (4) The owner shall attest, as part of such agreement, that no such construction of floor area of low income housing required under paragraph (1) of this subdivision shall be used by the owner to satisfy an eligibility requirement of any real property tax abatement or exemption program, or of a floor area ratio increase pursuant to section 23-90 of the zoning resolution, for which the owner otherwise may be eligible to apply, or to apply for a hardship waiver from any existing code or zoning resolution requirements. The department shall ensure that floor area of low income housing required under paragraph (1) of this subdivision is in addition to and not in substitution for floor area of low income housing that may be used by the owner to satisfy an eligibility requirement of any real property tax abatement or exemption program, or of a floor area ratio increase pursuant to section 23-90 of the zoning resolution, for which the owner may apply. The department shall ensure that a city, state or federal subsidy shall not be used for the construction of low income housing required under paragraph (1) of this subdivision.
- f. Suspension and rescission of a certification.
- (1) The department may rescind a certification of no harassment that was granted for a pilot program building if it finds that harassment has occurred at such building while such certification was in effect, as described by this subdivision.
 - (2) If the department has reasonable cause to believe that harassment has occurred during the effective period of a certification of no harassment, the commissioner shall suspend the certification of no harassment for the pilot program building. Upon the request of the department, the department of buildings shall not approve any construction documents or issue an initial or reinstated permit in connection with covered categories of work or, if such documents have been approved or such permit has been issued, issue a stop-work

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notice and order pursuant to section 28-505.6. Notice of such a suspension of a certification of no harassment shall be mailed to the applicant, the owner of record of such pilot program building and known tenants of such building and shall be filed with the city register or Richmond county clerk.

- (3) As soon as reasonably possible after a request for a hearing by an owner who has received a notice of suspension, but not later than 30 days after such suspension, the department shall commence a proceeding at the office of administrative trials and hearings by filing the required pleadings. At the hearing, the owner of a pilot program building for which a certification of no harassment has been suspended shall have the opportunity to be heard. Notice of such hearing shall be given to the applicant, such other persons and known tenants of such building in the manner prescribed by the office of administrative trials and hearings. The department may receive testimony from such other persons and known tenants of such building. The department shall determine whether to rescind the certification of no harassment within 45 days of receiving the report and recommendation from the office of administrative trials and hearings.
 - (4) If the owner has been found by New York state homes and community renewal or any court having jurisdiction to have engaged in harassment, unlawful eviction, or arson at the pilot program building after the certification of no harassment was granted, the department may determine whether to rescind such certification without commencing a proceeding at the office of administrative trials and hearings.
 - (5) If the department determines not to rescind such certification of no harassment, the department shall notify the department of buildings of such determination and any stop work notice and order issued by the department of buildings pursuant to section 28-505.6 shall be vacated immediately. Notice of such determination shall be mailed to the owner of record of such pilot program building, the known tenants of such building and filed with the city register or the Richmond county clerk.
 - (6) If the department determines that such certification of no harassment shall be rescinded, notice of such determination accompanied by written findings indicating the grounds for such determination shall be provided to the department of buildings and shall be mailed to the owner of record of such pilot program building and filed with the city register or the Richmond county clerk. Such determination shall be subject to review pursuant to article 78 of the civil practice law and rules.
- g. For the purpose of any subsequent proceeding with respect to a pilot program building, the granting of a certification of no harassment or a waiver thereof for any period of time shall be conclusive proof only for the purposes of this section that no harassment occurred within the time period covered by such certification or that the waiver or such certification for such time period was appropriate.
 - h. Fees. The department is authorized to establish by rule reasonable fees from applicants for the administrative expenses incurred by the department for issuing the certification of no harassment pursuant to this section, including costs for publication and notices.
 - i. Waiver. The commissioner may grant a waiver of certification of no harassment although the commissioner determines that harassment has occurred at the pilot program building for which such certification is sought during the 60 month period prior to the date of the submission of an application for a certification of no harassment if the commissioner finds that:
 - (1)

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- (A) the owner of record of the pilot program building was the owner of record prior to November 29, 2017 or had entered into a contract of sale for the purchase of such pilot program building which was recorded prior to such date or, with respect to a certification proceeding where the alterations sought to be performed are of the type prescribed by rule of the commissioner pursuant to item 5 of section 28-505.3, the owner of record of such multiple dwelling was the owner of record of such multiple dwelling prior to the date of the first publication of such rule or had entered into a contract of sale for the purchase of such multiple dwelling which was recorded prior to such date;
 - (B) such owner was not the owner of such multiple dwelling during any period of time in which such harassment occurred and did not at such pilot program building (i) otherwise engage or participate in such harassment; or (ii) with intent that harassment be performed, agree with one or more persons to engage in or cause the performance of harassment; or (iii) with intent that another person engage in conduct constituting harassment, solicit, request, command, importune or otherwise attempt to cause such person to engage in conduct constituting harassment; and
 - (C) such owner acquired title pursuant to a bona fide transaction that is not intended to evade the provisions of this section; or
- (2) the owner acquired the multiple dwelling by sale pursuant to foreclosure of a mortgage or pursuant to a deed in lieu of foreclosure of a mortgage; provided, however, that such conveyance was a bona fide transaction for the purpose of enforcing the debt and not intended to evade the provisions of this section and either:
- (i) a certification of no harassment or waiver thereof was granted with respect to such multiple dwelling within a sixty day period prior to the date of the recording of such mortgage and no suspension or rescission thereof was recorded prior to such date; or
 - (ii) such mortgage was recorded prior to November 29, 2017 or, if such owner is a banking organization as defined in section 2 of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section 4 of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least 20 savings banks or by at least 20 savings and loan associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, a commitment for such mortgage was made prior to such date.
- (3) In determining whether a transaction described in this subdivision was bona fide, the commissioner may consider whether at such pilot project building or any other multiple dwelling such owner did (i) otherwise engage or participate in harassment; or (ii) with intent that harassment be performed, agree with one or more persons to engage in or cause the performance of harassment; or (iii) with intent that another person engage in conduct constituting harassment, solicit, request, command, importune or otherwise attempt to cause such person to engage in conduct constituting harassment. The commissioner may also consider the relationship between the parties to the transaction.
- (4) A waiver of a certification pursuant to this subdivision shall state the findings of the commissioner.

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§27–2094 Inspection of one- and two-family dwellings; voluntary registration of owner-occupant.

- a. Notwithstanding any other provision of this chapter, the department, its officers or inspectors, shall have no authority to inspect a one- or two-family dwelling, at least one dwelling unit of which is owner-occupied, for violations of this code, unless the department has received a signed complaint relating to conditions in such dwelling or has a warrant for such inspection.
- b. The owner of a one- or two-family dwelling who occupies a dwelling unit in such dwelling, may notify the department of such owner-occupancy, without payment of a fee, by filing a form to be prescribed by the department including the following information:
 - (1) An identification of the premises by street number or by such other description as will enable the department to locate the dwelling; and
 - (2) An identification of the owner by name, residence and business address; and
 - (3) A statement that he or she is the owner-occupant of the premises.

§27–2095 Service of notices and orders.

- a. Except as otherwise expressly provided in this code, any notice of violation or other notice, or any order authorized or required to be served by the department under the provisions of this code, shall be served in the following manner on any person or corporation to whom or which such notice or order is directed:
 - (1) By delivering a copy of such notice or order to such person directly, or if it is directed to a corporation, by delivering a copy thereof to any officer or managing agent of such corporation personally; or
 - (2) By delivering a copy of such notice or order to any person of suitable age and discretion at the residence or place of business of the person to whom it is directed, or if it is directed to a corporation, at any office of such corporation; or
 - (3)
 - (i) If service is to be made on an owner of a dwelling, by mailing a copy of such notice or order to the latest business or residence address of such owner as set forth in any registration statement filed by such owner with the department under the applicable provisions of article two of this subchapter;
 - (ii) If service is to be made on a managing agent of any such dwelling designated under the applicable provisions of article two of this subchapter, by mailing a copy thereof to the latest business or residence address of such managing agent set forth in any such registration statement or designation filed by the owner of such dwelling;
 - (iii) If service is to be made on an owner of a dwelling who has not filed such a registration statement in relation to such dwelling, or on a managing agent of any such dwelling who has not been designated under the applicable provisions of article two of this subchapter, by posting a copy of such notice or order in a conspicuous place in such dwelling, or by delivering a copy thereof to any person of suitable age and discretion in charge of or apparently in charge of such dwelling, or by mailing a copy thereof to such owner or managing agent at the last known business or residence address of such owner or managing agent.
- b. Any such notice directed to an owner of a dwelling or tenant of any space therein need not designate such owner or tenant by name, but shall refer to such dwelling or space by a

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description which shall be sufficient to identify same and shall state that it is directed to the owner of such dwelling or tenant of such space, as the case may be.

- c. Where a designation of a managing agent under the applicable provisions of article two of this subchapter is currently in effect as to any multiple dwelling, any notice mentioned in subdivision a of this section which is directed to the owner of such multiple dwelling shall also be directed to such managing agent, and shall be served by the department on both such owner and managing agent.
- d. If a mortgagee or lienor has registered with the department pursuant to the provisions of section 27-2109 of article two of this subchapter, any notice of violation or other notice, or any order authorized or required to be served by the department under the provisions of this code on the owner of a dwelling may also be mailed to such mortgagee or lienor no later than five days after the date upon which such notice or order is served upon the owner, but the department's failure to mail such notice or order to such mortgagee or lienor shall not in any way affect the validity of service of such notice or order upon the owner.

§27-2096 **False statements punishable.**

- a. Any application filed with the department for the granting of any relief or the taking of any action by the commissioner or the department or for the granting of any permit under the provisions of this code and any answer to such application filed with the department, shall be signed by the person authorized or required to submit such application or answer under the provisions of this chapter, or if such application or answer is authorized or required to be submitted by a corporation, by an officer thereof.
- b. Any person who signs any such application or answer, or any registration statement or designation of a managing agent authorized or required under the provisions of this code shall certify that all statements therein contained are true and correct.
- c. Any person signing any such application, answer, registration statement, or designation of a managing agent, who makes any false statement therein as to any material matter to which the certification provided for in subdivision b of this section applies, shall be guilty of an offense punishable as provided in section 27-2118 of subchapter five of this code.

ARTICLE 2 REGISTRATION

§27-2097 **Registration; time to file.**

- a. The owner of a dwelling required to register under this article shall register with the department in accordance with the provisions of this article.
- b. A registration statement shall be filed:
 - (1) For every existing multiple dwelling. A registration statement filed by the present owner of a dwelling pursuant to the requirements of the prior law shall constitute compliance with this section.
 - (2) Prior to the issuance of a certificate of occupancy, for any multiple dwelling hereafter erected, or any dwelling or building hereafter altered or converted to a multiple dwelling.
 - (3) For all one- and two-family dwellings where neither the owner nor any family member occupies the dwelling and thereafter not later than ten days after the date neither the owner nor any family member occupies the dwelling. For purposes of this paragraph,

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"family member" shall mean an owner's spouse, domestic partner, parent, parent-in-law, child, sibling, sibling-in-law, grandparent or grandchild.

(4) On or before July first, nineteen hundred eighty-four, for any garden-type maisonette dwelling project consisting of a series of dwelling units which together and in their aggregate are arranged or designed to provide three or more apartments, and are provided as a group collectively with all essential services such as, but not limited to, house sewers and heat, and which are operated as a unit under single ownership, notwithstanding that certificates of occupancy were issued for portions thereof as private dwellings.

(5) Within such time as provided in section 27-2099 of this article, in the case of a change of ownership where registration is required under this article.

- c. An owner who is required to register shall file a new registration statement annually.
- d. An owner who is required to register shall file a new registration statement on the registration date assigned to that dwelling by the department whether or not that owner filed a registration statement for that dwelling previously.
- e. The registration date of a dwelling shall be a calendar date assigned by the department to that dwelling for the purpose of registration on such date at intervals of one year.

§27-2098 **Registration statement; contents.**

- a. The registration statement shall include the following information:
 - (1) An identification of the premises by block and lot number, and by the street numbers and names of all streets contiguous to the dwelling, or by such other description as will enable the department to locate the dwelling. If the dwelling is a garden-type maisonette dwelling project required to register pursuant to paragraph four of subdivision (b) of section 27-2099 of this article, the owner who files the first registration statement with the department for such project shall list on the registration statement the street numbers for each dwelling in the project and shall designate an address by which the project dwellings are to be identified by the department.
 - (2) An identification of the owner by name, residence and business address. If the owner is a corporation, the identification shall include the name and address of such corporation together with the names, residences and business addresses of the officers. If the owner of a multiple dwelling is a corporation, the identification shall also include the names and addresses of any person whose share of ownership of the corporation exceeds twenty-five percent. For the purposes of this subdivision, any person owning a share of a parent corporation shall be deemed to be an owner of a share of a subsidiary corporation equal to the product of the percentage of his or her ownership of the parent corporation multiplied by the percentage of the parent corporation's ownership of the subsidiary corporation. If the owner of a multiple dwelling is a partnership, the identification shall include the name and business address of such partnership together with the names and business addresses of each general partner and for each limited partner whose share of ownership of the partnership exceeds twenty-five percent, the names and business addresses of all such limited partners. If the owner is under the age of eighteen years or has been judicially declared incompetent, his or her legal representative shall file the registration statement.
 - (3) If the dwelling is a multiple dwelling, the name and address of a managing agent designated by the owner to be in control of and responsible for the maintenance and operation of such dwelling and to authorize, on behalf of the owner, the correction of any emergency conditions or the making of any emergency repairs for which the owner is

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responsible under the provisions of the multiple dwelling law or this code. To qualify for such designation, an agent shall be a natural person over the age of twenty-one years and shall reside within the city or customarily and regularly attend a business office maintained within the city. An owner or corporate officer who meets such qualifications may be designated to serve and registered as the managing agent.

- (4) If the dwelling is a multiple dwelling or a one- or two-family dwelling where neither the owner nor any family member occupies the dwelling, the number of a telephone within the greater metropolitan area, as identified by the department, where an owner or officer, if the owner is a corporation, or the managing agent may reasonably be expected to be reached at all times. The telephone number contained in the registration statement shall not constitute a public record and shall be accessible only to duly authorized employees or officers of the department and used exclusively by such personnel in connection with an emergency arising on the premises for which the owner is responsible under the provisions of the multiple dwelling law or this code. The department may promulgate regulations to implement the provisions of this paragraph.
 - (5) If the dwelling is a one- or two-family dwelling and neither the owner nor any family member occupies the dwelling, the name and address of a natural person who is over the age of twenty-one years and a resident of the city, designated by the owner to receive service of notices, orders or summonses issued by the department.
 - (6) For the purposes of this section, a United States postal service mail delivery box, a mail delivery box maintained through a privately operated mail handling facility or the address at which any similar service is provided shall be deemed an invalid business address and the department shall not accept for filing any registration statement containing only such an address.
- b. The registration statement shall be signed by the owner or, if the owner is a corporation, by any officer. In the appropriate case, either the managing agent or the designee described in paragraph five of subdivision a of this section shall sign the statement to indicate consent to the designation except that such consent is not required if an owner or officer of a corporation is registered as the managing agent.
 - c. The registration statement shall be filed on forms to be prescribed by the department and shall be accompanied by a filing fee of thirteen dollars. In the case of an owner previously registered with the department, no new filing fee shall be required for the filing of a supplemental registration.
 - d. The department may require that a multiple dwelling registration statement contain such other information, in addition to the information specifically required by this article, which it deems to be related to the ownership or management of such dwelling.

§27-2099 **Registration statement; change of ownership or title.**

- a. When the owner of a dwelling, who is required to register under this article, conveys title to the dwelling to another, the transferor shall, on the day of such transfer, notify the department by regular mail of the name, residence and business address of the new owner, or, if the new owner is a corporation, of the name and address of such corporation. The registration statement in accordance with section 27-2098 of this article shall be presented by the new owner to the office of the register of the city of New York, or the county clerk as required by subdivision c of this section if such owner records such deed, or to the department if the deed is not recorded, and in no event more than five days from the date of taking of title; however,

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the failure by a new owner to file such registration statement shall not impair the validity of his or her title.

- b. When the ownership of a dwelling changes by operation of law, the new owner, if required to register, shall file a registration statement in accordance with section 27-2098 of this article not more than thirty days from the date that title devolved upon him or her.
- c. The office of the register of the city of New York or county clerk shall not record or accept for recording any deed transferring title to real property or a lease or memorandum of lease of an entire multiple dwelling unless such instrument is accompanied by the registration statements required under this article, with their appropriate fees, or an affidavit stating that the deed, or lease or memorandum of lease does not affect a multiple dwelling and such registration is not required. Such registration statements and the fees therefor shall be forwarded to the department for filing and acceptance.
- d.
 - (1) Notwithstanding any other provision of law, after thirty days have elapsed from the date that title to a dwelling is conveyed to a new owner or devolves upon a new owner by operation of law, if the new owner has not filed a registration statement in relation to such dwelling, the department may invalidate the former owner's last valid registration for such dwelling upon application by such former owner for the limited purpose of service of notices or orders authorized or required under this code to be served by the department upon the last registered owner or last registered managing agent. To effect such limited invalidation, the former owner shall submit such documentation as is satisfactory to the department that the ownership of the dwelling has changed and that such former owner no longer owns the dwelling; provided, however, that such registration shall remain valid for all purposes until the department informs such former owner in writing that such registration has been invalidated for such limited purpose.
 - (2) Where a notice or order is authorized or required under this code to be served by the department upon the last registered owner or last registered managing agent and the department has invalidated the last valid registration pursuant to paragraph one of this subdivision for the limited purpose of service of notices or orders, such service may be made by personal delivery of the notice or order to a person in direct or indirect control of the premises or by mailing a copy thereof to the attention of "owner" or "managing agent" at such dwelling; provided, however, that such manner of service is authorized only until such time as a valid registration is subsequently filed for the dwelling.

§27-2100 Registration statement; change of address. An owner who is required to register under this article shall inform the department and shall amend his or her registration statement within five days if there is a change of address of the owner, a change in the list of officers of the owner corporation, or a change of address of any of such listed officers. No new filing fee shall be required for the amended registration statement.

§27-2101 Change of managing agent.

- a. The owner may terminate the designation of a managing agent at any time by filing with the department a statement designating a qualified successor.
- b. The managing agent may terminate his or her agency, but such termination shall not become effective until eight days after the filing of written notice with the department and the service of a copy of such notice on the owner. The notice to the department shall set forth the registration number and address of the building and the name and address of the owner together with an affidavit of proof of service upon the owner. Service upon the owner may be

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made by delivery of a copy personally to the owner or any officer, if the owner is a corporation, by registered mail to the address of any owner or officer, as set forth in the registration statement, or by delivery of a copy to any person of suitable age and discretion at the address of the owner or any officer as set forth in the registration statement. Prior to the effective termination date, the owner shall file with the department a statement designating a qualified successor.

- c. If the designation of a managing agent shall cease to be effective as a result of death or judicial declaration of incompetence of the agent or his or her disqualification because of removal from New York city, the owner shall file a statement with the department within eight days thereafter designating a qualified successor.
- d. The redesignation of a managing agent shall comply with the requirements of section 27-2098 of this article and no new filing fee shall be required.

§27-2102 Registration statement; lease of an entire multiple dwelling.

- a. When an entire multiple dwelling is leased, both the owner and lessee of such entire multiple dwelling shall file registration statements in accordance with all the provisions of this article. The registration statement of the lessee shall be presented to the office of the register of the city of New York or the county clerk as required by subdivision c of section 27-2099 of this article if the lessee records such lease or memorandum of lease, or to the department if the lease is not recorded, and in no event more than five days from the taking of possession.
- b. The obligation of the owner to comply with the requirement for designating a managing agent, the filing of an emergency telephone number as required by section 27-2098 of this article and for the posting of the building serial number required in section 27-2104 of this article shall be deemed satisfied if the lessee complies with such requirements.
- c. If the lessee resides within the city or customarily and regularly attends a business office maintained within the city, the name and address of the lessee may be used in lieu of that of the registered owner in the issuance of rent bills or receipts required in section 27-2105 of this article.

§27-2103 Extension of time for registration. In any case where the owner or other person required to file is unable to comply with the registration requirements within the applicable time period specified in this article, the department may, upon good cause shown, extend the registration period and waive the penalties for failure to register set forth in section 27-2107 of this article during such period.

§27-2104 Posting of serial number. An identification sign containing the dwelling serial number assigned by the department for the purpose of identifying the registered multiple dwelling and the owner, managing agent, and agent designated by the owner for the collection of rental payments if different from the managing agent, shall be posted in every multiple dwelling in the manner and location prescribed by the department.

§27-2105 Identification of managing agent or owner and agent designated by the owner for the collection of rental payments if different from the managing agent to tenant.

- a. At the time of each rental payment, either a rent bill or receipt for such payment of rent shall be issued to the tenant of an apartment or rooming unit stating the name and New York City address of the managing agent (or of the designee described in paragraph five of subdivision a of section 27-2098 of this article), or, owner as recorded in the current registration statement on file in the department, and of the agent designated by the owner for the collection of rental payments if different from the managing agent. The rent bill or receipt for such payment of rent shall be printed on the letterhead of the managing agent or on the

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letterhead of the New York City address of the building owner. If there is a new managing agent, owner, or agent designated by the owner for the collection of rental payments, the rent bill or receipt shall state this. The registered name and address of the owner may be substituted for that of the managing agent if the owner resides or maintains an office where he or she customarily transacts business within the city.

- b. Written notice of a change of managing agent or of the agent designated by the owner for the collection of rental payments if different from the managing agent shall be delivered by the owner by regular mail to each tenant. Such notice shall be postmarked no later than fifteen days prior to the date the next rental payment is to be collected and shall contain the telephone number of the new managing agent or the new agent designated by the owner for collection of rental payments if different from the managing agent.

§27-2106 **Registration statement; proof of contents.**

- a. The failure of the owner or lessee of an entire multiple dwelling to produce the receipt issued by the department acknowledging the filing of a registration statement, or the failure of a managing agent to produce the receipt issued by the department acknowledging the filing of a notice of termination, shall be prima facie evidence of failure to comply with the provisions of this article.
- b. Any such registration statement shall be deemed prima facie proof of the statements therein contained in any action or proceeding instituted by a city agency or by a tenant against the owner, lessee of an entire multiple dwelling or managing agent.

§27-2107 **Failure to register; penalties.**

- a. A person who is required to file a statement of registration or an amendment of a statement of registration or any other statement required under this article and who fails to file as required may, whenever appropriate, be punished under the provisions of article three of subchapter five of this code, and such person shall be subject to a civil penalty of not less than two hundred and fifty dollars and not more than five hundred dollars, recoverable by the department by civil action in a court of appropriate jurisdiction.
- b. An owner who is required to file a statement of registration under this article and who fails to file as required shall be denied the right to recover possession of the premises for nonpayment of rent during the period of noncompliance, and shall, in the discretion of the court, suffer a stay of proceedings to recover rents, during such period. In any action to recover possession under section seven hundred eleven of the real property actions and proceedings law, the owner shall set forth his or her registration number issued by the department, and shall allege that he or she has filed a statement of registration and shall annex a copy of the receipt of such registration to his or her petition.

§27-2108 Exemption of the city of New York, its agencies and the New York city housing authority. The provisions of this article shall not be applicable to the city of New York, its agencies and the New York city housing authority.

§27-2109 **Voluntary registration of mortgagees and lienors.**

Any mortgagee or lienor may register with the department upon payment of an annual registration fee of twenty-five dollars and by filing a registration statement on forms to be prescribed by the department including the following information:

- a. The name and address of the mortgagee or lienor.
- b. An identification of the premises in such manner as required by the provisions of section 27-2098 of this article, or by the serial number, if any, assigned by the department pursuant to the provisions of section 27-2104 of this article.

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- c. The name or title and the address of the person to whom and where notices or orders may be given or sent and persons who may be served, as provided in this code.

§ 27-2109.1 Notice by a mortgagee commencing an action to foreclose a mortgage on residential real property.

a.

1. Any mortgagee that commences an action in a court of competent jurisdiction in the state of New York to foreclose a mortgage on residential real property within the city of New York shall provide notice to the department, in a form prescribed by the department, within fifteen days of service of the pleadings commencing such action. If such action was commenced before the effective date of the local law that added this section, and remains pending as of such effective date, notification shall be provided within thirty days of such effective date, provided, however, that no notice shall be required for actions commenced prior to February 13, 2010, regardless of whether such action remains pending as of such effective date. Such notice shall include, but need not be limited to, the following information:
 - (i) the name of the mortgagee plaintiff commencing such action and the mailing address, telephone number and e-mail address of such mortgagee plaintiff, and, when applicable, the name of a principal or corporate officer of such mortgagee plaintiff, and the mailing address, telephone number and e-mail address of such principal or corporate officer;
 - (ii) the name of the defendant in such action;
 - (iii) the identification of such residential real property by street address and block and lot number, (iv) the date of the commencement of such action,
 - (v) the court in which such action was commenced, and
 - (vi) such other information as the department may require by rule. For the purposes of this section, "mortgagee" shall mean any person that commences an action to foreclose a mortgage on residential real property including, but not limited to, a lender, assignee or mortgage loan service provider that commences such an action.
2. A mortgagee shall notify the department within fifteen days of the discontinuance of an action for which notice pursuant to paragraph one of this subdivision has been received by the department, the issuance of a judgment in such action, or the sale of the real property as a result of such action.
3. The department shall maintain on its website a list of all properties with twenty or more units, identified by block and lot number along with the name, mailing address and telephone number of the mortgagee plaintiff and the name of the defendant for which notice pursuant to paragraph one of this subdivision has been received. Such list shall be updated at a minimum on the first business day of each month. The department shall report on its website each three months:
 - (i) the total number of foreclosure actions commenced during the immediately preceding three months for which notice pursuant to paragraph one of this subdivision has been received by the department, disaggregated by community district; and
 - (ii) the total number of foreclosure actions pending, for which notice pursuant to paragraphs one and two of this subdivision has been received by the department, disaggregated by community district. The department shall provide the

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information provided to it pursuant to paragraphs one and two of this subdivision to one or more agencies for which the department determines that such information furthers such agency or agencies' duties, including but not limited to the enforcement of section 28–210.1 of this code or related provisions, and to any other city agency upon request by such agency.

- b. Any mortgagee who fails to notify the department in accordance with subdivision a of this section shall be liable for a civil penalty enforceable by the department. Such civil penalty shall not exceed one thousand dollars for each week that there is a failure to notify. The failure to notify shall not be deemed to affect in any way any pending legal proceeding related to such residential real property.
- c. The provisions of this section shall not apply to any foreclosure actions brought by a governmental entity.

ARTICLE 3 SPECULATION WATCH LIST

§27–2109.51 **Definitions.** For the purposes of this article:

Capitalization rate. The term "capitalization rate" means, with respect to a multiple dwelling, the quotient obtained when the net operating income of such multiple dwelling, as calculated by the department of finance, is divided by the sale price of such multiple dwelling's most recent arms-length sale.

Qualified transaction. The term "qualified transaction" means a multiple dwelling sale transaction as defined by department rule pursuant to subdivision b of section 27-2019.52.

§27–2109.52 **Speculation watch list.**

- a. Within 300 days after the effective date of the local law that added this section, the department shall establish a speculation watch list. Such speculation watch list shall comprise certain multiple dwellings that contain six or more dwelling units in which a majority of such units are rent regulated, and shall be created by analyzing the capitalization rate for qualified transactions involving such multiple dwellings and applying the criteria promulgated by rule pursuant to subdivision b of this section.
- b. The department shall promulgate by rule the criteria for inclusion of a multiple dwelling on the speculation watch list established pursuant to subdivision a. Such rules shall define a qualified transaction for purposes of analyzing capitalization rate, and may also include, but need not be limited to, establishing the amount or ratio per dwelling unit of open hazardous and immediately hazardous violations, the amount or ratio per dwelling unit of paid or unpaid emergency repair changes, and the number of dwelling units, for purposes of including a multiple dwelling on the speculation watch list. The department may also promulgate by rule the criteria for removal of a multiple dwelling from the speculation watch list in instances where the department's analysis of the multiple dwelling has changed, or the multiple dwelling has entered into a regulatory agreement with the department requiring the operation of such building as affordable housing or the stabilization of rents in such building, or the multiple dwelling has obtained a certification of no harassment from the department.
- c. The department shall post the following on its website:
 1. The speculation watch list established pursuant to this article;
 2. The criteria for inclusion on such list promulgated pursuant to subdivision b; and

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3. The capitalization rate for each qualified transaction in a non-proprietary format that permits automated processing, to the extent that the disclosure of such information is not prohibited by any other provisions of law.
- d. Such buildings on such list may be prioritized by the department for preservation programs or initiatives or may be subject to referral for appropriate enforcement of all applicable laws and rules.
- e. The department shall update the speculation watch list on a quarterly basis or, in the department's discretion, more frequently.
- f. Where a building is the subject of a regulatory agreement with the department requiring the operation of such building as affordable housing or the stabilization of rents in such building, in a manner determined by the department, such building shall not be included on the speculation watch list.
- g. On or after January 1, 2021, the department may change the methodology for identifying multiple dwellings for inclusion on the speculation watch list by amending its rules promulgated under subdivision b of this section to provide for alternative criteria, including but not limited to replacement of the capitalization rate as a criterion, for inclusion on the speculation watch list. In the event the department replaces capitalization rate as a criterion for inclusion on the speculation watch list, the department shall provide a report to the council at the same time that includes its rationale for such replacement, and shall substitute the posting of the capitalization rate provided for in paragraph 3 of subdivision c of this section with the posting of the metric replacing the capitalization rate as a criterion for inclusion on the speculation watch list.

**SUBCHAPTER 5
LEGAL REMEDIES AND ENFORCEMENT**

**ARTICLE 1
ENFORCEMENT ACTIONS AND PROCEEDINGS
IN GENERAL**

§27–2110 Style of legal actions by department; disposition of moneys collected.

- a. All actions or proceedings instituted to recover penalties imposed by this code, or to recover any costs, expenses and disbursements incurred by the department for the repair or rehabilitation of a dwelling that are reimbursable under the provisions of this code, shall be brought in the name of the department by the corporation counsel.
- b. All moneys recovered under this section shall be paid to the city officer who brings such actions and proceedings. Such officer shall pay the moneys to the commissioner of finance each month. The officer, on the first of each month, shall report to the commissioner of the department on the amount collected under this section, if any, and the necessary disbursements incurred in the prosecution of such actions and proceedings, if any.

§27–2111 Moneys collected by department payable to special repair fund. All penalties and all other moneys recovered for costs, expenses and disbursements that are reimbursable under this code for the repair or rehabilitation of a dwelling shall be paid into a separate fund in the treasury of the city. Such fund shall be available to the department for the purpose of meeting the

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costs, expenses and disbursements for the repair or rehabilitation of dwellings pursuant to the provisions of this code.

§27-2112 **Liability of the department for costs.** Neither the city nor the department nor any officer or employee thereof shall be liable for costs in any action or proceeding brought under this code.

§27-2113 **Notice of pendency of action.**

- a. In any action or proceeding brought by the department, it may file a notice of pendency in the county clerk's office in the county where the premises affected by the action or proceeding are located. The department may file such notice at any time after it serves the notice of violation or order to repair, or at the time it commences the action or proceeding, or any time thereafter, before final judgment or order.
- b. The corporation counsel shall designate in writing on such notice of pendency the name of each person against whom the notice is filed and the number of each block on the land map of the county which is affected by the notice. The county clerk in whose office a notice of pendency is filed shall record and index such notice against the names and blocks designated.
- c. A notice of pendency may be vacated by order of a judge of the court where such action or proceeding was brought or is pending, or by the written consent of the corporation counsel. The clerk of the county where such notice is filed shall cancel the notice upon receipt of such written consent or a certified copy of such order.

§27-2114 **Responsibility of stockholders of corporations owning multiple dwellings declared nuisances.**

- a. The term "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence. Whatever is dangerous to human life or detrimental to health, and whatever dwelling is overcrowded with occupants or is not provided with adequate ingress or egress or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted in reference to its intended or actual use, and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this section, nuisances. All such nuisances are unlawful.
- b. Whenever the department shall certify that any multiple dwelling, or any part of its premises, or the plumbing, sewerage, drainage, lighting or ventilation thereof, is in a condition or in effect dangerous to life or detrimental to health, the department may, after giving notice to the owner and an opportunity to be heard at a hearing held for such purpose, declare the same, to the extent it may specify, a public nuisance. Such declaration shall be filed in the central violation bureau as provided by section three hundred twenty-eight of the multiple dwelling law, if applicable, or as a public record in the department. The officers of a corporation upon which notice of such hearing has been served, other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or by at least twenty savings and loan associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, shall serve similar notice on all stockholders of record of the corporation and other persons known to be stockholders or beneficial owners of the stock of the corporation.

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A stockholder upon whom such notice has been served shall serve similar notice upon any persons holding a beneficial interest in such stockholder's stock.

- c. The department may order such nuisance to be removed in accordance with the provisions of article five of this subchapter, and if any order of the department is not complied with, then, as an alternative to proceeding under the provisions of article five of this subchapter, if the multiple dwelling involved shall have been declared to be a public nuisance pursuant to subdivision b of this section, and such declaration shall have been filed as therein provided, the department or a receiver appointed pursuant to article six of this subchapter or section three hundred nine of the multiple dwelling law or any tenant of such multiple dwelling may institute and maintain an action in the supreme court or in the housing part of the New York city civil court in the county where the multiple dwelling is located against any owner or owners to whom the order was issued pursuant to section 27-2125 of article five of this subchapter for an order compelling such owner or owners to comply with the department's order and, if such action be brought by such receiver or tenant, for payment of the costs and disbursements of the action including legal fees. Except as owners may have otherwise agreed, any owner who removes or remedies the nuisance in compliance with an order of the department or court shall be entitled to recover a proportionate share of the total expense of such compliance from all other owners to whom the department's order was issued or to whom such owner sent a copy of the department's order within thirty days of receipt of same by registered mail.
- d. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to subdivision b of this section and such declaration shall have been filed as therein provided, the term "owner" shall be deemed to include, in addition to persons mentioned in the definition of the term in section four of the multiple dwelling law, all the officers, directors and persons having an interest in more than ten percent of the issued and outstanding stock of the owner as herein defined, as holder or beneficial owner thereof, if such owner be a corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or by at least twenty savings and loan associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, and thereupon any corporation which is included in the term "owner" as provided in this subdivision d shall file an additional statement of registration within ten days which shall contain the name and residence and business address of each director and stockholder of the corporation and of each person known to have any beneficial interest in such stock.
- e. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to subdivision b of this section, and such declaration shall have been filed as therein provided, all officers, directors and persons having an interest, as holder or beneficial owner thereof, in more than ten percent of the issued and outstanding stock of any corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, the mortgage facilities corporation, savings banks life insurance fund, the savings banks retirement system, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other

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corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or by at least twenty savings and loan associations or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, then in operation and control of such multiple dwelling, shall, in addition to all other liabilities and penalties provided in this code and elsewhere, be jointly and severally liable for all injury to person or property thereafter sustained by any tenant of such multiple dwelling or any other person by reason of the condition constituting such public nuisance and for all costs and disbursements including attorney's fees of any suit brought by such tenant or other person.

- f. No civil or criminal liability or penalty shall attach to any person by reason of such person's ownership or beneficial ownership of stock in a corporation owning a multiple dwelling declared to be a public nuisance pursuant to subdivision b of this section because of his or her failure to comply with any of the provisions of this code, whose interest in such corporation is less than twenty-five per cent of the issued and outstanding stock thereof, as owner or beneficial owner thereof, and who has sustained the burden of proving that he or she has not participated directly or indirectly in the management, operation or control of such multiple dwelling.
- g. No civil or criminal liability or penalty shall attach to any person by reason of such person's ownership or beneficial ownership of stock in a corporation owning a multiple dwelling declared to be a public nuisance pursuant to subdivision b of this section because of his or her failure to comply with any of the provisions of this code unless and until such person has had a reasonable period of time to comply following his or her having become an owner as defined in this code.
- h. No civil or criminal liability or penalty shall attach to any person who shall by operation of law become an owner of a multiple dwelling then or thereafter certified and declared a public nuisance to any extent pursuant to subdivision b of this section, or the holder or beneficial owner of stock in such owner, if a corporation, because of his or her failure to comply with any of the provisions of this code and of the multiple dwelling law for a period of six months after he or she acquired ownership of said multiple dwelling or the stock or beneficial interest in the stock of a corporation which is the owner.

CHAPTER 2
HOUSING MAINTENANCE CODE

ARTICLE 2
CIVIL PENALTY

§27-2115 Imposition of civil penalty.

- (a) A person who violates any law relating to housing standards shall be subject to a civil penalty of not less than ten dollars nor more than fifty dollars for each non-hazardous violation, not less than twenty-five dollars nor more than one hundred dollars and ten dollars per day for each hazardous violation, fifty dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing five or fewer dwelling units, from the date set for correction in the notice of violation until the violation is corrected, and not less than fifty dollars nor more than one hundred fifty dollars and, in addition, one hundred twenty-five dollars per day for each immediately hazardous violation, occurring in a multiple dwelling containing more than five dwelling units, from the date set for correction in the notice of violation until the violation is corrected. A person willfully making a false certification of correction of a violation shall be subject to a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars for each violation falsely certified, in addition to the other penalties herein provided.
- (b) The department shall serve a notice of violation upon the owner, his or her agent or other person responsible for its correction. The notice shall identify the condition constituting the violation, the provision of law applicable thereto, the department's order number, the classification of the violation according to its degree of hazard, the time for certifying the correction of such violation, and the amount of the possible penalty. It shall also advise that the department will, if requested, confer with the owner or his or her representative concerning the nature and extent of the work to be done to insure compliance and the methods of financing such work. In any case where the provisions of this section authorize the service of such notice by mail, the statement of any officer, clerk, or agent of the department, or of anyone authorized by the department to mail such notice of violation, subscribed and affirmed by such person as true under the penalties of perjury, which describes the mailing procedure used by the department, or by the department's mailing vendor, or which states that these procedures were in operation during the course of mailing a particular cycle of notices of violation, shall be admitted into evidence as presumptive evidence that a regular and systematic mailing procedure is followed by the department for the mailing of its notices of violation. Where the department introduces into evidence the business records which correspond to the various stages of the mailing of a particular cycle of notices of violation, pursuant to subdivision (c) of rule forty-five hundred eighteen of the civil practice law and rules, then a presumption shall have been established that the mailing procedure was followed in the case of such cycle, and that such notice of violation has been duly served.
- (c) The said notice of violation shall also specify the date by which each violation shall be corrected. Such date shall be:
- (1) ninety days from the date of mailing of the notice in the case of non-hazardous violations;
 - (2) thirty days from the date of mailing of the notice in the case of hazardous violations; and
 - (3) twenty-four hours in the case of immediately hazardous violations in which case the notice shall be served by personal delivery to a person in charge of the premises or to the

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person last registered with the city as the owner or agent, or, by registered or certified mail, return receipt requested, to the person in charge of the premises or to the person last registered with the department as the owner or agent; provided that where a managing agent has registered with the department, such notice shall be served on the managing agent. Service of the notice shall be deemed completed five days from the date of mailing. The department may postpone the date by which a violation shall be corrected upon a showing, made within the time set for correction in the notice, that prompt action to correct the violation has been taken but that full correction cannot be completed within the time provided 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 part of the building as may be necessary to make the required repair. In the case of immediately hazardous violations such showing must be made prior to the close of business on the next full day the department is open following the period set for correction. The department may condition such postponement upon the applicant's written agreement to correct all violations placed against the premises by the department or other appropriate governmental agency and to satisfy within an appropriate period of time, all sums owing to the department for repairs made to said premises. The department may require such other conditions as are deemed necessary to insure correction of the violations within the time set by the postponement. The department shall prepare a written statement signed and dated by the person making such decision setting forth the reasons for the postponement of the date by which a violation shall be corrected or the reason for the denial of such application for postponement and said written statement shall be part of the record of the department.

- (d) On or before September first, nineteen hundred seventy-two, the department shall classify all violations of the multiple dwelling law, the housing maintenance code and other applicable state and local laws as non-hazardous, hazardous and immediately hazardous, secure the approval thereof by the advisory council to the housing part of the civil court of the city of New York and publish such classification in the City Record. Such classification shall be based on the effect of the violation upon the life, health or safety of the occupants of the building and upon the public. After October first, nineteen hundred seventy-two and prior to October fifteenth, nineteen hundred seventy-two, the department shall hold a public hearing on the proposed classifications. Notice of such public hearing shall be published in the City Record not less than thirty days prior to the hearing. Within fifteen days after the conclusion of the said hearing, the department shall forward to the advisory council the list with such proposed changes as it may recommend for their approval. Within ten days of the receipt of such list, the advisory council shall advise the department as to which changes they have approved. The department shall thereupon, within five days, cause the list, together with such changes as have been approved to be published once each week for two successive weeks in the City Record. Any person who may be aggrieved as an owner or tenant may, within thirty days of such first publication seek a review of the department's action, provided that no such review shall stay the effectiveness of such list or the operation of the housing part of the civil court of the city of New York. Thereafter, and from time to time, the department may modify the list with the approval of the advisory council after publication, and public hearing as provided for the original list.
- (e) In the event the department fails to promulgate such list as above provided, or to take any step in connection therewith within the time provided, the administrative judge of the civil

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court and the judicial conference may take such action as they deem necessary to insure the establishment of the housing part of the New York city civil court and its operation on April first, nineteen hundred seventy-three, as provided by law.

(f)

- (1) The notice of violation shall direct that when any violations of a particular class have been corrected, they may be certified at one time to the department or, in the alternative, each violation may be separately and independently certified. Such certification shall be made in writing, under oath by the registered owner, a registered officer or director of a corporate owner or by the registered managing agent except that, in the alternative, such certification may be submitted in an electronic form in accordance with the rules of the department which shall provide a mechanism for authenticating the source of the electronic submission; the department shall be required to accept such electronic submissions if submitted in accordance with such rules on and after the effective date of the local law that added these provisions authorizing such electronic submissions. Such certification shall be delivered to the department in person or electronically and acknowledgement of receipt therefor obtained or shall be mailed to the department by certified or registered mail, return receipt requested, no later than fourteen days after the date set for correction in the case of non-hazardous and hazardous violations, and no later than five days after the date set for correction in the case of immediately hazardous violations, and shall include the date when each violation was corrected. Such certification of correction shall be supported by a sworn statement, which may be submitted in an electronic form in accordance with the rules of the department, by the person who performed the work if performed by an employee or agent of the owner.
- (2) A copy of such certification shall then be mailed not more than twelve calendar days from the date of receipt of notification to any complainant by the department.
- (3) Such violation shall be deemed corrected seventy days from the date of receipt of such certification by the department unless the department has determined by a reinspection made within such period that the violation still has not been corrected and has recorded such determination upon its records and has notified the person who executed the certification by registered or certified mail to the address stated in the certification that it has been set aside and the reasons therefor; a copy of such notice shall be sent to the complainant.
- (4) If the department does not inspect the premises after notification by the complainant that a violation has not been corrected, any tenant affected by such false certification shall have the right to apply to the court for a determination of violation as provided in subdivision (h) of this section, at which time the court shall assess appropriate penalties as provided in this section for any willfully false certification it finds.
- (5) Upon receipt of notice that the certification has been set aside the owner or his or her agent shall then have a right to apply to the court for a determination that such violation was corrected. Notice of such right shall appear on each notice that a certification has been set aside.
- (6) Notwithstanding the foregoing, in the event an owner files with his or her certification a copy of a contract of sale or letter of commitment for a mortgage or refinancing of a mortgage covering the premises and further certifies that such sale or mortgage transaction is to occur within one hundred days of such certification, such violation shall be deemed corrected thirty days from the date of receipt of such certification by the

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department, unless the department has determined by reinspection made within such period that the violation still has not been corrected, has recorded such determination upon its records and has given notice of such determination to the owner, and has thereafter brought an action within thirty days to set aside such certification, to impose a penalty for false certification and to collect such other penalties as have accrued, provided that in all such cases, the department shall make such reinspection.

- (7) Failure to file such certification of compliance shall establish a prima facie case that such violation has not been corrected.
- (8)
- (i) Notwithstanding any other provision of law, where
 - (A) the department has performed two or more complaint-based inspections in the same dwelling unit within a twelve-month period,
 - (B) each such inspection has resulted in the issuance of a hazardous or immediately hazardous violation, and
 - (C) not all such violations have been certified as corrected pursuant to this section, the department may impose an inspection fee of two hundred dollars for the third and for each subsequent complaint-based inspection that it performs in such dwelling unit within the same twelve-month period that results in the issuance of a hazardous or immediately hazardous violation, provided that the department may by rule increase the fee for inspections performed during the period of October first through May thirty-first. Such inspection fee shall be in addition to any civil penalties that may be due and payable.
 - (ii) Such fee shall not be applicable to inspections
 - (A) performed in a multiple dwelling that is active in the alternative enforcement program pursuant to article ten of subchapter five of this chapter,
 - (B) performed in a multiple dwelling that is subject to a court order appointing an administrator as the result of a proceeding brought by the department pursuant to article seven-a of the New York state real property actions and proceedings law,
 - (C) performed pursuant to subparagraph iv of paragraph one of subdivision k of this section,
 - (D) resulting exclusively in hazardous or immediately hazardous violations for inoperable smoke detectors, inoperable carbon monoxide detectors, double cylinder locks on entry doors of dwelling units, illegal window gates, absence of window guards, or such other hazardous or immediately hazardous violations that the department specifies by rule or
 - (E) where an owner has notified the department of his or her objection to such fee pursuant to section 27-2129 of this code, has provided such documentation to the department as it shall prescribe by rule regarding such owner's attempted access for the purpose of making repairs to the dwelling unit that is subject to the inspection fee, and the department has reviewed and approved such objection.
 - (iii) All fees that remain unpaid shall constitute a debt recoverable from the owner and a lien upon the premises, and upon the rents and other income thereof. The provisions of article eight of subchapter five of this chapter shall govern the effect and enforcement of such debt and lien.
- (g) When there are a number of separate instances of a single condition which violates any housing standard established by law, such separate instances shall be treated collectively as a

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single violation with respect to any one dwelling unit, or with respect to the public area of a building, but nothing contained in this subdivision shall limit the number of violations for which a penalty under this section may be collected with respect to each dwelling unit or the public area of a building.

(h)

(1) Should the department fail to issue a notice of violation upon the request of a tenant or group of tenants within thirty days of the date of such request, or if there is a notice of violation outstanding respecting the premises in which the tenant or group of tenants resides, or, if there is a claim of harassment pursuant to subdivision d of section 27-2005 of this chapter, the tenant or any group of tenants, may individually or jointly apply to the housing part for an order directing the owner and the department to appear before the court. Such order shall be issued at the discretion of the court for good cause shown, and shall be served as the court may direct. If the court finds a condition constituting a violation exists, it shall direct the owner to correct the violation and, upon failure to do so within the time set for certifying the correction of such violation pursuant to subdivision (c) of this section, it shall impose a penalty in accordance with subdivision (a) of this section. Nothing in this section shall preclude any person from seeking relief pursuant to any other applicable provision of law.

(2)

(i) Notwithstanding the provisions of paragraph one of this subdivision, where one or more allegations of harassment pursuant to subparagraphs b, c and g of paragraph 48 of subdivision a of section 27-2004 of this chapter is made, to the extent that any such allegation is based on physical conditions of a dwelling or dwelling unit, such allegation must be based at least in part on one or more violations of record issued by the department or any other agency. Where any allegation of harassment is based on more than one physical condition, the existence of at least one violation of record with respect to any such physical condition shall be deemed sufficient to meet the requirements of this paragraph.

(ii) The provisions of subparagraph i of this paragraph shall apply to any counterclaim or defense presented by a tenant in any proceeding in the housing part of the civil court if such counterclaim or defense is based on one or more allegations of harassment. In the event there is no violation of record with respect to at least one physical condition alleged by such tenant such counterclaim or defense shall be dismissed without prejudice.

(i) In the event an owner fails to correct a violation within the time specified in a notice of violation sent to the owner, his or her agent or other person responsible for its correction pursuant to subdivision (b) of this section, or within any additional time granted pursuant to subdivision (c) of this section, and no certification of correction with respect to such violation has been filed by the owner or his or her registered managing agent in accordance with the provisions of subdivision (f) hereof, then at any time after thirty days have elapsed from the date such violation was to be corrected, any tenant or group of tenants who requested that the violation be issued may apply individually or jointly, to the housing part for an order directing the owner and the department to appear before the court. Where the violation is hazardous or immediately hazardous, the thirty-day requirement shall be waived. Said order shall be issued by the court for good cause shown. If the court finds that the violation has not been corrected, that more than thirty days have elapsed since the time to

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correct same has expired where a violation is non-hazardous, and that no certification of correction has been filed in accordance with the provisions of subdivision (f) hereof, then it shall direct the owner to correct the violation and shall assess penalties as provided in subdivision (a) of this section.

(j) If a tenant seeks an order directing the owner and the department to appear before the court pursuant to subdivision (h) or (i) of this section, the court may allow service of the order by the tenant by certified or registered mail, return receipt requested.

(k)

(1)

(i) 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 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 that occurs within two consecutive calendar years or, in the case of subdivision a of section 27-2029, during two consecutive periods of October first through May thirty-first. A person who violates subdivision b of section 27-2029 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 not less than one thousand dollars. There shall be a presumption that the condition constituting a violation continues after the affixing of the notice.

(ii) Notwithstanding the provisions of subparagraph (i) of this paragraph and section 27-2116 of this chapter, the civil penalties set forth in subparagraph (i) of this paragraph shall be deemed satisfied for a first violation of section 27-2028, subdivision a of section 27-2029, section 27-2031 or section 27-2032 of this chapter if a notice, in a form prescribed by the department, that such violation has been corrected by the owner or an agent or employee of the owner within twenty-four hours of the affixing of the notice of such violation pursuant to paragraph two of this subdivision, and a payment of two hundred fifty dollars, are submitted to the department within ten days of affixing the notice of such violation. A person who submits a false notice of correction shall be subject to a civil penalty of not less than two hundred fifty dollars for each false notice of correction, in addition to the other penalties herein provided. If the notice of correction and payment are not received within such ten-day period then the penalties set forth in subparagraph (i) of this paragraph shall be applicable to such violations and the department may commence a proceeding for an order to correct and to recover such penalties in accordance with this section and section 27-2116 of this chapter. A person who has violated section 27-2028, subdivision a of section 27-2029, section 27-2031 or section 27-2032 of this chapter may allege as a defense or in mitigation of liability for civil penalties, compliance with the notice of correction and payment requirements of this subparagraph in any proceeding brought by the department seeking civil penalties under this subdivision. The process for submission of the notice of correction and payment set forth in this subparagraph shall not be available if a violation of section 27-2028, section 27-2031 or section 27-

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- 2032 of this chapter occurred at the same dwelling or multiple dwelling during the prior calendar year or, in the case of subdivision a of section 27-2029 of this chapter, if a violation of such subdivision occurred at the same dwelling or multiple dwelling during the prior period of October first through May thirty-first.
- (iii) Notwithstanding any other provision of law, within five business days from the date of receipt of the notice of correction by the department, the department shall mail to the occupant of any dwelling unit for which such violation was issued notification that the owner has submitted a notice of correction for such violation. The notification to the occupant shall include information on when the violation was reportedly corrected and how the occupant may object to such notice of correction. In addition, the provisions of paragraphs 4 and 5 of subdivision f of this section shall also be applicable to a notice of correction submitted in compliance with subparagraph (ii) of this paragraph.
 - (iv) Notwithstanding any other provision of law, a person who, after inspection by the department, is issued an immediately hazardous violation for a third or any subsequent violation of section 27-2028, section 27-2031 or section 27-2032 of this chapter at the same dwelling or multiple dwelling within the same calendar year or, in the case of subdivision a of section 27-2029 of this chapter, at the same dwelling or multiple dwelling within the same period of October first through May thirty-first, shall be subject to a fee of two hundred dollars for each inspection that results in the issuance of such violation as well as any civil penalties that may be due and payable for the violation, provided, however, that such fee shall not be applicable to inspections performed in a multiple dwelling that is included in the alternative enforcement program pursuant to article ten of subchapter five of this chapter. All fees that remain unpaid shall constitute a debt recoverable from the owner and a lien upon the premises, and upon the rents and other income thereof. The provisions of article eight of subchapter five of this chapter shall govern the effect and enforcement of such debt and lien.
- (2) Notwithstanding any other provision of law, the department shall serve a notice upon the owner, his or her agent or other person responsible for the correction of violations by affixing such notice in a conspicuous place on the premises. The notice shall identify the condition constituting the violation, the provision of law applicable thereto, the date the violation was reported and set the penalty attendant thereto.
- (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

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- (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.

Where the aforesaid allegations are made by way of mitigation of penalties, the owner shall show, by competent proof, pertinent financial data, and efforts made to obtain necessary materials, funds or labor or to gain access, or to obtain a permit or license and such other evidence as the court may require.

If the court finds that sufficient mitigating circumstances exist, it may remit all or part of any penalties arising from the violation, but may condition such remission upon a correction of the violation within a time period fixed by the court.

(1)

- (1) Notwithstanding any other provision of law, when the department serves a notice of violation to correct and certify a condition that constitutes a violation of article fourteen of subchapter two of this chapter, the notice of violation shall specify the date by which the violation shall be corrected, which shall be twenty-one days after service of the notice of violation, and the procedure by which the owner, for good cause shown pursuant to this subdivision, may request a postponement. The notice of violation shall further specify that the violation shall be corrected in accordance with the work practices established in accordance with section 27-2056.11 of this code. The notice of violation shall be served by personal delivery to a person in charge of the premises or to the person last registered with the department as the owner or agent, or by registered or certified mail, return receipt requested, or by certified mail with proof of delivery, to the person in charge of the premises or to the person last registered with the department as the owner or agent; provided that where a managing agent has registered with the department, such notice of violation shall be served on the managing agent. Service of the notice of violation shall be deemed completed three days from the date of mailing. Notification, in a form to be determined by the department, of the issuance of such violation shall be sent simultaneously by regular mail to the occupant at the dwelling unit that is the subject of such notice of violation. The department may postpone the date by which a violation shall be corrected upon a showing, made within the time set for correction in the notice, that prompt action to correct the violation has been taken but that full correction cannot be completed within the time provided because of serious technical difficulties, inability to obtain necessary materials, funds or labor, inability to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as may be necessary to make the required repair. Such postponement shall not exceed fourteen days from the

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date of correction set forth in the notice of violation. The department may require such other conditions as are deemed necessary to insure correction of the violations within the time set for the postponement. The department may grant one additional postponement of no more than fourteen days for the reasons authorized by this section so long as the paint or other condition which is the subject of the violation has been stabilized. The department is also authorized to promulgate rules establishing criteria for a postponement of the time to correct for a longer period of time where such postponement is requested because of one or more substantial capital improvements will be made that will, when completed, significantly reduce the presence of lead-based paint in such multiple dwelling or dwelling unit including, but not limited to, a requirement that the paint which is the subject of the violation is stabilized. The department shall provide to the owner and the occupant a written statement signed and dated by the person making such decision setting forth the reasons for each postponement of the date by which a violation shall be corrected or the reason for the denial of such application for a postponement. Said written statement shall be part of the records of the department.

- (2) Notwithstanding any other provision of law, the notice of violation shall direct that the correction of each violation cited therein shall be certified to the department. Such certification shall be made in writing, under oath by the registered owner, a registered officer or director of a corporate owner or by the registered managing agent. Such certification shall include a statement that the violation was corrected in compliance with paragraph one of subdivision a of section 27-2056.11 of this code and shall include a copy of the lead-contaminated dust clearance test results. All certifications shall be delivered to the department and acknowledgment of receipt therefor obtained or shall be mailed to the department by certified or registered mail, return receipt requested, no later than five days after the date set for correction, and shall include the date when each violation was corrected. Such certification of correction shall be supported by a sworn statement by the person who performed the work if performed by an employee or agent of the owner. A copy of such certification shall be mailed to the complainant by the department not more than twelve full calendar days from the date of receipt of such certification by the department. Failure to file such certification shall establish a prima facie case that such violation has not been corrected.
- (3) Whenever the department shall issue a notice of violation to correct a condition that constitutes a violation of section 27-2056.6 of article fourteen of subchapter two of this chapter, the department shall within fourteen days after the date set for the correction of such violation conduct a final inspection to verify that the violation has been corrected. Where, upon conducting an inspection, the department determines that a violation has not been corrected, the department shall correct such violation within forty-five additional days of such inspection or in such shorter time as is practicable.
- (4) Notwithstanding any other provision of law, the department shall not remove a violation from its records nor shall it be deemed that such violation has been corrected unless the records of the department contain written verification that the department has conducted a final inspection of the premises and that such inspection verifies that the violation has been corrected, and copies of lead-contaminated dust clearance test results whenever such tests are required by applicable law, rule or regulation. A copy of the report of the final inspection of a dwelling unit and the status of the violation shall be mailed or delivered to the occupant and the owner.

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- (5) Notwithstanding any other provision of law, a person making a false certification of correction of a violation issued pursuant to article 14 of subchapter 2 of this chapter, in addition to any other civil penalty, shall be subject to a civil penalty of not less than one thousand dollars nor more than three thousand dollars for each false certification made, recoverable by the department in a civil action brought in a court of competent jurisdiction. If the person making such false certification is an employee of the owner then such owner shall be responsible for such civil penalty. In addition, any such person making a false certification of correction shall be guilty of a misdemeanor punishable by a fine of up to one thousand dollars or imprisonment for up to one year or both.
- (6) Notwithstanding any other provision of law, a person who violates article fourteen of subchapter two of this chapter by failing to correct such violation in accordance with paragraph one of subdivision a of section 27-2056.11 of this code shall be subject to a civil penalty of two hundred fifty dollars per day for each violation to a maximum of ten thousand dollars from the initial date set for correction in the notice of violation until the date the violation is corrected and certified to the department, and in addition to any civil penalty shall, whenever appropriate, be punished under the provisions of article three of subchapter five of this code. There shall be a presumption that the condition constituting a violation continues after the service of the notice of violation. The owner shall be responsible for the correction of all violations noticed pursuant to article fourteen of subchapter two of this chapter, but in an action for civil penalties pursuant to this subdivision 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 serious technical difficulties, inability to obtain necessary materials, funds or labor, or inability to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as might be necessary to make the repair, provided that a postponement was granted pursuant to this subdivision; 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 of negligence, neglect or abuse of another not in the employ or subject to the direction of the owner, except that the owner shall be precluded from showing in defense or mitigation of such owner's liability for civil penalties evidence of any acts occurring, undertaken, or performed by any predecessor in title prior to the owner taking control of the premises. Where the aforesaid allegations are made by way of mitigation of penalties, the owner shall show, by competent proof, pertinent financial data and efforts made to obtain necessary materials, funds or labor or to gain access, or to obtain a permit or license and such other evidence as the court may require.

If the court finds that sufficient mitigating circumstances exist, it may remit all or part of any penalties arising from the violations, but may condition such remission upon a correction of the violation within a time period fixed by the court.

- (7) Notwithstanding any other provision of law, failure by the department to comply with any time period provided in this section relating to responsibilities of the department shall

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not render null and void any notice of violation issued by the department or the department of health and mental hygiene pursuant to such article or section, and shall not provide a basis for defense or mitigation of an owner's liability for civil penalties for violation of such article.

(m)

- (1) Notwithstanding any other provision of law, a violation of subdivision d of section 27-2005 of this code shall be a class c immediately hazardous violation and a penalty shall be imposed in accordance with this section, provided, however, that such violation shall not be deemed a continuing class c violation of record beyond the time that the conduct constituting such violation occurred.
- (2) If a court of competent jurisdiction finds that conduct in violation of subdivision d of section 27-2005 of this chapter has occurred, it may determine that a class c violation existed at the time that such conduct occurred. Notwithstanding the foregoing, such court may also issue an order restraining the owner of the property from violating such subdivision and direct the owner to ensure that no further violation occurs, in accordance with section 27-2121 of this chapter. Such court shall impose a civil penalty in an amount not less than two thousand dollars and not more than ten thousand dollars for each dwelling unit in which a tenant or any person lawfully entitled to occupancy of such unit has been the subject of such violation, and such other relief as the court deems appropriate, provided that where a petitioner establishes that there was a previous finding of a violation of subdivision d of section 27-2005 against such owner and such finding was made (i) within the preceding five year period and (ii) on or after the effective date of the local law that added this clause, such court shall impose a civil penalty in an amount not less than four thousand dollars and not more than ten thousand dollars. It shall be an affirmative defense to an allegation by a tenant of the kind described in subparagraphs b, c and g of paragraph forty-eight of subdivision a of section 27-2004 of this chapter that (i) such condition or service interruption was not intended to cause any lawful occupant to vacate a dwelling unit or waive or surrender any rights in relation to such occupancy, and (ii) the owner acted in good faith in a reasonable manner to promptly correct such condition or service interruption, including providing notice to all affected lawful occupants of such efforts, where appropriate.
- (3) An owner may seek an order by the court enjoining a tenant from initiating any further judicial proceedings against such owner pursuant to this section claiming harassment without prior leave of the court if (i) within a ten-year period such tenant has initiated two judicial proceedings pursuant to this section against such owner claiming harassment that have been dismissed on the merits and (ii) a third or subsequent proceeding initiated by such tenant against such owner pursuant to this section claiming harassment during such ten-year period is determined at the time of its adjudication to be frivolous. Except for an order on consent such order may be sought by such owner simultaneously with the adjudication of such third or subsequent judicial proceeding.
- (4) Where the court determines that a claim of harassment by a tenant against an owner is so lacking in merit as to be frivolous, the court may award attorneys fees to such owner in an amount to be determined by the court.
- (5) Nothing in paragraphs three or four of this subdivision shall be construed to affect or limit any other claims or rights of the parties.

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- (6) After a court of competent jurisdiction has issued a finding that conduct in violation of subdivision d of section 27-2005 of this chapter has occurred, the department, if it receives notice of such finding, shall post on its website, no later than ninety days after having received notice of such finding, the following information for each such finding:
- (i) the address of the building containing the dwelling unit that was the subject of such violation;
 - (ii) the name of the property owner;
 - (iii) the civil penalty imposed for such violation;
 - (iv) the date such penalty was imposed; and (v) whether an order restraining the owner of such unit from violating subdivision d of section 27-2005 of this chapter was issued.
- (n) The provisions of subdivision d of section 27-2005 of this chapter, subdivision m of this section and subdivision b of section 27-2120 of this chapter shall not apply where a shareholder of record on a proprietary lease for a dwelling unit, the owner of record of a dwelling unit owned as a condominium, or those lawfully entitled to reside with such shareholder or record owner, resides in the dwelling unit for which the proprietary lease authorizes residency or in such condominium unit, as is applicable.
- (o) In any action brought by a lawful occupant or group of lawful occupants under subdivision h of this section for a violation of subdivision d of section 27-2005 of this chapter, the housing part shall, in addition to any other relief court determines to be appropriate, award to each such occupant (i) compensatory damages or, at the election of such occupant, one thousand dollars and (ii) reasonable attorneys' fees and costs. Such court may also, at its sole discretion, award punitive damages.

§27-2116 Enforcement of civil penalty; powers of housing part of the civil court, collection of judgment.

- (a) The department may bring an action in the housing part of the New York city civil court for the recovery of civil penalties, together with costs and disbursements. Leave of court, obtained by motion to the housing part thereof, shall be required for disclosure or for a bill of particulars, except for a notice under section three thousand one hundred twenty-three of the civil practice law and rules, which shall be granted only upon a showing that such disclosure or bill of particulars is necessary to the prosecution or defense of the action. If it is so noted on the summons, any motion for disclosure or a bill of particulars must be made in writing and on notice and must be filed with the clerk with proof of service no later than thirty days after joinder of issue.
- (b) The owner shall be responsible for the correction of all violations, but in an action for civil penalties may in defense or mitigation of such owner's liability for civil penalties show:
- (1) That the violation or violations were corrected within the time specified in the notice of violation and the certificate of compliance was duly filed; or
 - (2) That the violation did not exist at the time the notice of violation was served; or in mitigation or remission of his or her liability for civil penalties show:
 - (i) That he or she began to correct the violation promptly upon receipt of the notice of violation, but that its full correction could not be completed within the time provided 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
 - (ii) 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

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(iii) 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 defendant.

Where the aforesaid allegations are made by way of mitigation of penalties, the owner shall show, by competent proof, pertinent financial data, and efforts made to obtain necessary materials, funds or labor or to gain access, or to obtain a permit or license and such other evidence as the court may require.

If the court finds that sufficient mitigating circumstances exist, it may remit all or part of any penalties arising from the violation, but may condition such remission upon a correction of the violation within a time period fixed by the court.

- (c) A defendant in an action for civil penalties who asserts that a violation was caused by the act, negligence, neglect or abuse of a third party who has commenced an action against such third party and may request the court to permit consolidation of defendant's action for the reasonable cost of such correction against such third party with the pending action for penalties, or if no other action is then pending against such third party, defendant may make application to implead the party alleged to have caused the act, negligence, neglect or abuse. Upon a finding that the violation in issue was caused by such third party, a judgment shall be entered against such third party in favor of the defendant for the reasonable cost of such correction.
- (d) When the department obtains a determination in an action under this article against an owner, judgment may be entered against the premises which shall constitute a lien when a transcript of such judgment is filed in the office of the county clerk in the manner prescribed for the filing of judgments and may be enforced against the premises, and, if such judgment remains unsatisfied for ninety days, as a levy upon the rents, pursuant to section 27-2148 of article eight of this subchapter.

§27-2117 Stay of accumulation of per diem penalties during pendency of action.

- (a) In any action for penalties under this article, the defendant may move at any time before the trial of the case for an order to stay the further accumulation of the per diem penalty from the day the action is commenced until the same is finally terminated by judgment or otherwise, including the time necessary for judicial review. The housing part of the civil court shall grant the motion if the defendant shows to the satisfaction of the court that there is a substantial and real issue of fact or law concerning the existence of the violation charged. The court may impose such conditions on the granting of the motion as justice may require.
- (b) Nothing in this article shall prevent an owner from contesting the finding of a violation by the department, in advance of the department's action for the collection of penalties in the housing part of the civil court of the city of New York or by any other means provided by law. In any such action or proceeding, the court may stay the further accumulation of the per diem penalty in the same manner and under the same conditions as provided in subdivision (a) of this section.

ARTICLE 3 CRIMINAL PENALTY

§27-2118 Penalties; willful or reckless violations; false statements.

- (a) Any person who

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- (1) Willfully or recklessly violates any provisions of this chapter; or
 - (2) Willfully or recklessly violates, or fails to comply with, any requirement of an order of the department; or
 - (3) Willfully makes, or causes any other person to make, any false or misleading statement on any registration statement, notice, or other document required to be filed pursuant to this chapter, or on any application, or any accompanying document, for the granting of any permit or any other action by the department pursuant to this chapter, shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars nor more than one thousand dollars for each such violation, or by imprisonment up to one year, or by both such fine and imprisonment.
- (b) A person commits a willful violation when such person intentionally acts, or intentionally fails to act, to cause a desired result that violates this chapter. A person commits a reckless violation when such person acts, or fails to act, with a conscious disregard of a substantial risk that the act or failure to act will result in a condition, constituting a violation of this code, which will endanger the life, health or safety of another person.
- (c) In a prosecution for a willful or reckless violation of a provision of this chapter, evidence of prior service of civil process or of prior judgments for civil penalties arising from the same violation, and relating to the same dwelling, shall be admissible on the issue of the defendant's knowledge of the existence of the violation.
- (d) Evidence that the defendant had knowledge or notice of the violation and failed to correct the same for more than six months or take reasonable action to explain to the department this failure or inability to make the correction shall be relevant on the issue of the willfulness of defendant's action. This subdivision shall not be construed to prevent conviction for a willful violation on other grounds.

§27-2119 Penalties; refusal to admit and interference with inspection; failure to submit reports. Any person

- (1) who refuses entry, or access to an officer or inspector of the department to any premises or part thereof that the officer or inspector is lawfully authorized to inspect, or who unreasonably interferes with an authorized inspection; or
- (2) who fails to file any report or other paper which such person is required to file, under this code, except a statement of registration or other paper under article two of subchapter four of this chapter, shall be guilty of an offense, punishable by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

ARTICLE 4 INJUNCTIVE RELIEF

§27-2120 Injunctions; mandatory and prohibitory.

- a. The department may institute an action in a court of competent jurisdiction for an order requiring the owner of property or other responsible person to abate or correct any violation of this code, or to comply with an order or notice of the department, or for such other relief as may be appropriate to secure continuing compliance with this code. An action for injunctive relief hereunder may be brought in addition to other sanctions and remedies for violations of the code, or may be joined with any action for such other sanctions and remedies except criminal prosecution.

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- b. Any tenant, or person or group of persons lawfully entitled to occupancy may individually or jointly apply to the housing part of the civil court for an order restraining the owner of the property from engaging in harassment. Except for an order on consent, such order may be granted upon or subsequent to a determination that a violation of subdivision d of section 27-2005 of this chapter has occurred.

§27-2121 **Injunctive relief in other actions; powers of the court.** In any action or proceeding brought in the housing part of the New York city civil court, the court, on motion of any party or on its own motion, may issue such preliminary, temporary or final orders requiring the owner of property or other responsible person to abate or correct violations of this code, or to comply with an order or notice of the department, or to take such other steps as the court may deem necessary to assure continuing compliance with the requirements of this code, including direction of correction of violations of this code by a contractor, materialman or municipal department and payment of rent or release of funds deposited with the court in an appropriate amount to (i) such contractor or materialman upon the proper presentation of bills for the correction of such conditions or (ii) such municipal department.

§27-2122 **Preliminary injunctions.** Upon application by the department pursuant to section six thousand three hundred eleven of the civil practice law and rules supported by affidavit setting forth the facts showing the reasons therefor, a court of competent jurisdiction, or any judge of such court, may issue a preliminary order to correct or abate violations of this code, or to comply with an order or notice of the department, as the court may deem necessary to protect the health and safety of the occupants of a building until the entry of a final judgment or order.

§27-2123 **Court order of access to inspect premises.**

- a. A judge of any civil court of competent jurisdiction may, upon appropriate application by the department supported by an affidavit or affirmation, issue an order directing that access be provided to an officer or inspector of the department to any premises or part thereof, whenever an inspection of any premises or part thereof is required or authorized by any state or local law or regulation or entry to such area is necessary for correction of a condition violating such law or regulation.
- b. If the application is found appropriate, the court may issue an order to show cause why the order of access should not be issued. If the respondent cannot with due diligence be served personally within the time fixed in such order, service may be made on such person by posting a copy thereof in a conspicuous place in the premises to which access is sought and by sending a copy thereof by certified mail, return receipt requested, to such person at his or her last known address.
- c. The court shall set in the order of access specific dates and times for access.
- d. The person, officer or inspector gaining access shall, before entry, give notice of his or her authority and purpose to any occupant of the premises and show such occupant the order or a copy thereof upon request.
- e. Notwithstanding any other provision contained in section 27-2118 of article three of this subchapter, a person who after service of a certified copy of the order upon such person does not provide access or refuses to allow access to the person authorized to enter may be found guilty of contempt of court and may be required to pay a fine of a maximum of two hundred fifty dollars for willfully failing to provide or refusing to allow access. Service of the order shall be as the court directs or by personal service but if such cannot be made with due diligence within five days, service may be made by posting a copy of the order in a conspicuous place in the premises which is the subject of the order, and by sending a copy

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thereof by certified mail, return receipt requested, to such person at his or her last known address. Such person shall not be in contempt of court or be required to pay a fine if he or she establishes good and sufficient reason for a failure to be present when access was demanded.

- f. Nothing herein shall be deemed to authorize an officer or inspector of the department to enter any premises or part thereof if a person to whom an order is directed does not provide or refuses access.
- g. Nothing herein shall affect the validity of inspections authorized and conducted under any other provision of law, rule or regulation without the issuance of an inspection warrant as provided in this article.

§27-2124 Failure to comply with judicial order. A person who fails to comply with an order issued pursuant to this article by a court of competent jurisdiction or by a judge of such a court shall be punished in accordance with section five thousand one hundred four of the civil practice law and rules and article nineteen of the judiciary law.

ARTICLE 5 REPAIRS BY DEPARTMENT

§27-2125 Power to cause or order corrections of violations.

- a. Whenever the department determines that because of any violation of this chapter or other applicable law, any dwelling or part of its premises is dangerous to human life and safety or detrimental to health, it may
 - (1) correct such conditions, or
 - (2) order the owner of the dwelling or other responsible party to correct such conditions.
- b. Where the department determines that any violation of this chapter or other applicable law exists in any dwelling or part of its premises, it may order the owner of the dwelling or other responsible party to correct such conditions.
- c. An order issued pursuant to the preceding subdivisions shall state the violations involved and the corrective action to be taken, and shall fix a time for compliance, which shall be not less than twenty-one days from the date of service of the order, except that where a condition dangerous to human life and safety or detrimental to health exists or is threatened, a shorter period for compliance may be fixed.
- d. Any order not complied with within the stated time for compliance may be executed by the department. Where a multiple dwelling has been declared a public nuisance pursuant to section 27-2114 of article one of this subchapter, and an order to correct the conditions constituting the nuisance has not been complied with, the department shall execute the order pursuant to this subdivision or institute proceedings pursuant to article six of this subchapter.

§27-2126 Registration of lead paint violations; enforcement. [Repealed]

§27-2127 Corrective action pursuant to court order.

- a. The department may elect to proceed to take action to correct violations under this article pursuant to a prior court order. If the department so elects, it may serve, with any order served pursuant to subdivision a or b of section 27-2125 of this article, a notice that upon failure to comply with the order within the stated time the department may apply for a court order directing it to execute the repair order.
- b. Upon failure to comply with the repair order within the time fixed therein, the department may apply to a court of competent jurisdiction for an order directing the owner and any

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mortgagees or lienors of record to show cause why the department should not be directed to execute the order, and obtain a lien for the costs of such execution which shall have priority over all other liens and encumbrances. The application shall identify the dwelling, describe the violations covered by the repair order, the work required to remedy such violations and an estimate of the cost thereof, and contain proof of service of the repair order as required by this section.

- c. The order to show cause shall be served in the manner prescribed for service of an order to show cause in a receivership proceeding by subdivision c of section 27-2132 of article six of this subchapter.
- d. On the return date of the order to show cause, determination thereof shall have precedence over every other business of the court unless the court shall find that some other pending proceeding, having similar statutory preference, has priority. If the court finds that the facts stated in the application warrant the granting thereof, it shall issue an order directing the department to proceed to execute its repair order, or such part thereof as remains unexecuted.
- e. If the owner or any mortgagee or lienor of record or other person having an interest in the property, shall apply to the court to be permitted to remove or remedy the violations specified in the repair order and shall:
 - (1) demonstrate the ability promptly to undertake the work required; and
 - (2) post security for the performance thereof within the time, and in the amount and manner, deemed necessary by the court, then the court in lieu of issuing an order as provided in subdivision d of this section, may issue an order permitting such person to perform the work within a time fixed by the court.
- f. If, after issuance of an order pursuant to subdivision e of this section, but before the time fixed in such order for the completion of the work prescribed therein, it shall appear to the department that the person permitted to do the same is not proceeding with due diligence, the department may apply to the court on notice to those persons who have appeared in the hearing under subdivision d of this section for a hearing to determine whether an order should be rendered immediately as provided in subdivision g of this section.
- g. If, upon a hearing authorized in subdivision f of this section, the court shall determine that such person is not proceeding with due diligence, or upon the failure of such person to complete the work in accordance with the provisions of said order, the court shall order the department to execute or complete the execution of said order. Such order shall direct the department to apply the security to the expenses incurred in the execution of the repair order. In the event that such security should exceed the amount required to remove or remedy such violations, such order shall direct the department to file with the court, upon completion of the work prescribed therein, a full accounting of the amount of such security and the expenditures made pursuant to such order, and to turn over such surplus to the person who posted such security, together with a copy of such accounting.

§27-2128 **Recovery of expenses.** All expenses incurred by the department pursuant to section 27-2125 or section 27-2127 of this article shall constitute a debt recoverable from the owner and a lien upon the building and lot, and upon the rents and other income thereof. The provisions of article eight of this subchapter shall govern the effect and enforcement of such debt and lien.

§27-2129 **Statement of account.** Whenever the department has incurred expenses for the repair of a dwelling or for the elimination of any dangerous or unlawful conditions therein, pursuant to this article or any other provision of the administrative code or any other applicable provision of law, the department, its authorized representative, or the department of finance may send to the

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owner or his or her designee in the manner provided in section 11–129 of the administrative code a statement of account with the expense incurred and a demand for payment thereof. If the owner does not notify the department in writing of his or her objection to the first statement of account containing such charge before the date that such charge becomes due and payable as provided in subdivision b of section 27–2144 of article eight of this subchapter, such owner may not in any subsequent judicial or administrative proceeding contest the expense contained in such statement. The department will only review such objections that are received by it in writing on or prior to the due and payable date for the charge provided on the second statement of account containing such charge.

§27–2129.1 **Report on certain elevators referred to the department.** In December 2016 and in each December thereafter, the department shall submit to the mayor and the speaker of the council, and make publicly available online, a report on the multiple dwellings that were referred to the department during such fiscal year pursuant to section 28-219.4 of the administrative code, containing, at a minimum:

- (i) the number of multiple dwellings for which the department of buildings issued immediately hazardous elevator-related violations;
- (ii) the number of multiple dwellings for which the department of buildings issued immediately hazardous elevator-related violations that were corrected before referral to the department was required pursuant to section 28-219.4 of this code;
- (iii) the number of multiple dwellings with immediately hazardous elevator-related violations issued by the department of buildings that were referred to the department pursuant to section 28-219.4;
- (iv) the number of such referrals that included information indicating that a dwelling unit serviced by such elevator was not served by another operable elevator;
- (v) the number of multiple dwellings with immediately hazardous elevator-related violations that were corrected by the owner of the multiple dwelling subsequent to such referral and the average number of days between such referral and such correction;
- (vi) the number of multiple dwellings with immediately hazardous elevator-related violations that the department determined were dangerous to human life and safety or detrimental to health;
- (vii) the number of multiple dwellings with immediately hazardous elevator-related violations that the department ordered corrected; and
- (viii) the number of multiple dwellings with immediately hazardous elevator-related violations that were corrected by the department and the cost of such corrections.

ARTICLE 6 RECEIVERSHIP

§27–2130 **Grounds for appointment of receiver.** Whenever the department certifies that any condition in violation of this chapter or other applicable law in any multiple dwelling or any part of its premises constitutes a serious fire hazard or is a serious threat to life, health or safety, it may, upon failure of the owner to comply with an order to correct such conditions issued pursuant to section 27-2125 of article five of this subchapter, apply for the appointment of a receiver to repair and correct the violations.

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§27-2131 **Notice to owner, mortgagees and lienors.**

- a. If the department intends to seek the appointment of a receiver to remove or remedy a condition described in the preceding section, it shall serve upon the owner, along with the order pursuant to section 27-2125 of article five of this subchapter, a notice stating that in the event the violations covered by the order are not removed or remedied in the manner and within the time specified therein, the department may apply for the appointment of a receiver of the rents, issues and profits of the property with rights superior to those of the owner and any mortgagee or lienor.
- b. Within five days after service of the order and notice upon the owner, the department shall serve a copy of the order and notice upon every mortgagee and lienor of record, personally or by registered or certified mail, at the address set forth in the recorded mortgage or lien. If no address appears therein, a copy shall be sent by registered mail to the person at whose request the instrument was recorded.
- c. The department shall file a copy of the notice and order in the office of the county clerk in which mechanics liens affecting the property would be filed.

§27-2132 **Order to show cause.**

- a. The department, upon failure of the owner to comply with an order 27-2131 of this article within the time provided therein, may thereafter apply to a court of competent jurisdiction in the county where the property is situated for an order directing the owner and any mortgagees or lienors of record to show cause why the commissioner of housing preservation and development should not be appointed receiver of the rents, issues and profits of the property and why the receiver should not remove or remedy such condition and obtain a lien in favor of the department of housing preservation and development against the property having the priority provided in article eight of this subchapter to secure repayment of the costs incurred by the receiver in removing such conditions. Such application shall contain (a) proof by affidavit that an order of the department has been issued, served on the owner, mortgagees and lienors, and filed, in accordance with section 27-2131 of this article; (b) a statement that a serious fire hazard or a serious threat to life, health, or safety continued to exist in said dwelling after the time fixed in the department order for correction of the condition, and a description of the dwelling and conditions involved; (c) a brief description of the nature of the work required to remove or remedy the condition and an estimate as to the cost thereof.
- b. The order to show cause shall be returnable not less than five days after service is completed.
- c. A copy of the order to show cause, and the papers on which it is based, shall be served on the owner, mortgagees of record, and lienors. If any such persons cannot with due diligence be served personally within the city within the time fixed in the order, then service may be made by posting a copy of the order in a conspicuous place on the premises, and by sending a copy thereof by registered mail to the owner at the last address, if any, registered by such owner with the department, or to his or her last address, if any, known to the department, or, in the case of a mortgagee or lienor, to the address set forth in the recorded mortgage or lien, and by publication in a newspaper of general circulation in the county where such premises are located. Service shall be deemed complete on filing proof thereof in the office of the clerk of the court in which application for such order is made.

§27-2133 **Temporary appointment of receiver.**

- a. If the condition of the premises is such that unless immediately cured irreparable damage may be caused to the building or it constitutes an imminent danger to its occupants or the

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occupants of adjoining properties, then the order to show cause may be returnable in the discretion of the court in less than five days, and in such case, service may be made by posting a copy of the order in a conspicuous place on the premises and by mailing a copy to the owner at the address registered with the department and to the mortgagees and lienors at their respective addresses. But any appointment of a receiver without service pursuant to subdivision c of section 27-2132 of this article shall be temporary only and expire not more than thirty days thereafter unless, prior to the expiration of the thirty days, the department shall serve notice on the owner, mortgagee and lienors in the manner provided for in subdivision c of section 27-2132 of this article of intention to apply to the court at a date fixed in such notice and not less than five days after the service of such notice, for an extension of the receivership. Upon such service the period of the appointment of the temporary receiver shall be automatically extended for a further period of fifteen days. The notice shall also contain, in addition to the order to show cause and the papers on which it is based, a statement of any expenditures made or obligations incurred by the receiver during the period of his or her temporary appointment. On the date fixed in the notice, the court shall determine whether or not to extend the period of receivership. Such determination shall be made as if the application were an original one for the appointment of a receiver.

- b. A temporary receiver shall have the powers and duties provided in section 27-2135 of this article, except that he or she shall not, without express order of the court, make any repairs or improvements to the property or incur any expenses in the operation thereof during the period of his or her temporary appointment except such as may be necessary (1) to remedy or remove the immediate condition or conditions which called for his or her appointment, and (2) to the ordinary operation and maintenance of the property. For such specific purpose the receiver shall be entitled to let such contracts and undertake such expenses as may be necessary to accomplish the specific results without advertisements and without procuring competitive bids.

§27-2134 **Proceedings on return of order to show cause.**

- a. On the return of the order to show cause, determination thereof shall have precedence over every other business of the court unless the court shall find that some other pending proceeding, having a similar statutory preference, has priority.
- b. If the court finds that the facts stated in the application warrant the granting thereof, then it shall appoint the commissioner of housing preservation and development receiver of the rents, issues and profits of the property.
- c. Notwithstanding subdivision b of this section, if, after determination of the issue, the owner, or any mortgagee or lienor or other person having an interest in the property, shall apply to the court to be permitted to remove or remedy the conditions set forth in the department's application and shall
 - (1) demonstrate the ability promptly to undertake the work required; and
 - (2) post security for the performance thereof within the time, and in the amount and manner, deemed necessary by the court, then the court may in lieu of appointing a receiver issue an order permitting such person to perform the work within a time fixed by the court. If at the time fixed in the order the work has not been satisfactorily done, the court shall appoint such receiver. If after the granting of an order permitting a person to perform the work but before the time fixed by the court for the completion thereof it shall appear to the department that the person permitted to do the same is not proceeding with due diligence, then the department may apply to the court, on notice to those persons who

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have appeared in the proceeding, for a hearing to determine whether a receiver shall be appointed immediately. On the failure of any person to complete the work in accordance with the provisions of an order under this subdivision, the department, or any receiver thereafter appointed shall be reimbursed for costs incurred by him or her in removing or remedying the condition and other charges herein provided for out of the security posted by such person.

§27-2135 Powers and duties of receiver.

- a. A receiver appointed pursuant to this article shall have all of the powers and duties of a receiver appointed in an action to foreclose a mortgage on real property, together with such additional powers and duties as herein granted and imposed. Such receiver shall not be required to file any bond.
- b. The receiver shall with all reasonable speed remove violations in the dwelling and its premises, including those constituting a fire hazard or a threat to life, health or safety. He or she may also, in addition to ordinary repairs, maintenance and replacement, make other improvements to effect a rehabilitation of the property, in such fashion as is consistent with maintaining safe and habitable conditions over the remaining useful life of the dwelling. He or she shall have the power to let contracts or incur expenses therefor in accordance with the provisions of law applicable to contracts for public works except that advertisement shall not be required for each such contract. Notwithstanding any provision of law, the receiver may let contracts or incur expenses for individual items of repairs, improvements or supplies without the procurement of competitive bids where the total amount of any such individual item does not exceed twenty-five hundred dollars.
- c. The receiver shall collect the accrued and accruing rents, issues and profits of the dwelling and apply the same to the cost of the repairs and improvements authorized in subdivision (b) of this section, to the payment of expenses reasonably necessary to the proper operation and management of the property, including insurance and the fees of the managing agent, and the necessary expenses of his or her office as receiver, the repayment of all moneys advanced to the receiver by the department of housing preservation and development to cover the costs incurred by the receiver and interest thereon; and then, if there be a surplus, to unpaid taxes, assessments, water rents, sewer rents and penalties and interest thereon, and then to sums due to mortgagees or lienors. If the income of the property shall be insufficient to cover the cost of the repairs and improvements or the expenses reasonably necessary to the proper operation and management of the property and other necessary expenses of the receiver, the department of housing preservation and development shall advance to the receiver any sums required to cover such cost and expense and thereupon shall have a lien against the property having the priority provided in article eight of this subchapter for any such sums so advanced with interest thereon.
- d. The receiver shall be entitled to the same fees, commissions and necessary expenses as receivers in actions to foreclose mortgages. Such fees and commissions shall be paid into the fund created pursuant to section 27-2111 of article one of this subchapter. The receiver shall be liable only in his or her official capacity for injury to person and property by reason of conditions of the premises in a case where an owner would have been liable; such receiver shall not have any liability in his or her personal capacity. The personnel and facilities of the department of housing preservation and development and the corporation counsel shall be availed of by the receiver for the purpose of carrying out his or her duties as receiver, and the costs of such services shall be deemed a necessary expense of the receiver.

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§27-2136 **Discharge of receiver.** The receiver shall be discharged upon rendering a full and complete accounting to the court when the repairs and improvements herein authorized are completed and the cost thereof and all other costs authorized herein have been paid or reimbursed from the rents and income of the dwelling and the surplus money, if any, has been paid over to the owner or the mortgagee or lienor as the court may direct. However, at any time, the receiver may be discharged upon filing his or her account as receiver without affecting the right of the department of housing preservation and development to its lien. Upon the completion of the repairs and improvements, the owner, the mortgagee or any lienor may apply for the discharge of the receiver upon payment to the receiver of all moneys expended by him or her therefor and all other costs authorized by section 27-2135 of this article which have not been paid or reimbursed from the rents and income of the dwelling.

§27-2137 **Recovery of expenses of receivership; lien of receiver.**

- a. The expenditures made by the receiver pursuant to section 27-2135 of this article shall, to the extent that they are not recovered from the rents and income of the property collected by the receiver, constitute a debt of the owner and a lien upon the building and lot, and upon the rents and income thereof. Except as otherwise provided in this section, the provisions of article eight of this subchapter shall govern the effect and enforcement of such debt and lien; references therein to the department shall, for purposes of this article be deemed to refer to the receiver and, after such receiver's discharge, the department of housing preservation and development.
- b. Failure to serve a copy of the order and notice required in the manner specified by section 27-2131 of this article, or failure to serve any mortgagee or lienor with a copy of the order to show cause as required by subdivision c of section 27-2132 of this article, shall not affect the validity of the proceeding or the appointment of a receiver, but the rights of the department of housing preservation and development or of the receiver shall not in such event be superior to the rights of any mortgagee or lienor who has not been served as provided therein.
- c. Any mortgagee or lienor who at his or her expense remedies or removes the conditions to the satisfaction of the court pursuant to the provisions of subdivision c of section 27-2134 of this article shall have and be entitled to enforce a lien equivalent to the lien granted to the receiver in favor of the department of housing preservation and development hereunder. Any mortgagee or lienor who, following the appointment of a receiver by the court, shall reimburse the receiver and the department of housing preservation and development for all costs and charges as hereinabove provided shall be entitled to an assignment of the lien granted to the receiver in favor of the department of housing preservation and development.

§27-2138 **Obligations of owner not affected.** Nothing herein contained shall be deemed to relieve the owner of any civil or criminal liability incurred or any duty imposed by law by reason of acts or omissions of the owner prior to the appointment of a receiver, nor shall anything contained herein be construed to suspend during the receivership any obligation of the owner for the payment of taxes or other operating and maintenance expenses of the dwelling nor of the owner or any other person for the payment of mortgages or liens.

ARTICLE 7
VACATE ORDERS

§27-2139 **Power to order dwelling vacated.**

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- a. Any dwelling or part thereof, which, because of a structural or fire safety hazard, defects in plumbing, sewage, drainage, or cleanliness, or any other violation of this code or any other applicable law, constitutes a danger to the life, health, or safety of its occupants, shall be deemed to be unfit for human habitation.
- b. The department may order or cause any dwelling or part thereof which is unfit for human habitation to be vacated.

§27-2140 Content and effect of vacate order.

- a. An order issued pursuant to subdivision b of section 27-2139 of this article shall set forth the conditions which render the dwelling or part thereof unfit for human habitation.
- b. The order shall require all persons occupying the dwelling or part affected to vacate it within a period of time, not less than twenty-four hours nor more than ten days, to be stated in the order.
- c.
 - 1. The order shall require that the owner correct the conditions which render the dwelling or part thereof unfit for human habitation within a period of time, not to exceed ten days, to be stated in the order.
 - 2. If the department has not revoked or extended the order pursuant to subdivision b of section 27-2142 of this article, where such dwelling is a class B multiple dwelling or a class A multiple dwelling used for single room occupancy pursuant to section two hundred forty-eight of the multiple dwelling law, the owner of such dwelling shall be subject to a civil penalty of five thousand dollars for each dwelling unit which is included in said order. The fine shall be recoverable by the department by civil action in a court of appropriate jurisdiction. Such action must be commenced or notice of pendency filed within one year of the effective date of the vacate order.
- d. If a vacate order is not complied with within the time specified, the department may cause the dwelling or part thereof affected to be vacated.
- e. The filing of a vacate order in the office of the county clerk in the same manner as a notice of pendency shall be notice to any subsequent purchaser, mortgagee or lienor that any lien resulting from such vacate order shall be enforceable against and superior to the rights of such purchaser, mortgagee or lienor.
- f. When the department obtains a determination in an action under this article against an owner, judgment may be entered against the premises which shall constitute a lien when a transcript of such judgment is filed in the office of the county clerk in the manner prescribed for the filing of mechanic's liens and may be enforced against the premises as such, except that such lien shall have a duration of ten years.

§27-2141 Notice.

- a. The vacate order shall be served upon the owner by mailing a copy to the person last registered with the department as owner or agent by certified mail, return receipt requested. The affidavit of an employee or agent of the department, stating facts which show that the vacate order was duly addressed and mailed, shall be presumptive evidence that such vacate order was duly served.
- b. The vacate order shall be served upon the occupants of the dwelling by affixing a copy prominently on the dwelling which is the subject of the vacate order.

§27-2142 Reoccupancy after vacate order.

- a. No person shall occupy, or cause or permit to be occupied, any dwelling or part thereof while such dwelling or part is subject to a vacate order.

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- b. If the department finds that the conditions rendering a building or part unfit for human habitation have been corrected, it may revoke a vacate order. If the department finds that the unlawful conditions are being corrected and that continued occupancy may be permitted consistent with health and safety, it may extend the time period for compliance fixed in the order.
- c. The department may by regulations set forth standards and provide for hearings to determine when such vacate order should be revoked or extended.
- d. The department may require as a condition for revocation of a vacate order, that the owner make reasonable effort to notify any tenants who may have vacated the dwelling pursuant to such order that said tenant has a right to re-occupy the dwelling.

ARTICLE 8 RECOVERY OF EXPENSES

§ 27–2143 **Action against the owner for recovery of expenses.** The department may bring an action against the owner of a dwelling for the recovery of any costs, expenses and disbursements incurred by it under any provision of the administrative code making such expenses a debt recoverable from the owner. The institution of any such action shall not suspend or bar the right to pursue any other remedy provided by law for the recovery of such expenses, and such action may, subject to jurisdictional limitations, be joined with the enforcement of any such other remedy or any other claim against the owner relating to the same premises.

§27–2144 **Lien on premises.**

- a. There shall be filed in the office of the department a record of all work caused to be performed by or on behalf of the department. Such records shall be kept on a building-by-building basis and shall be accessible to the public during business hours. Such record may be made and maintained electronically. Within thirty days after the issuance of a purchase or work order to cause a repair to be made by or on behalf of the department, entry of such order shall be made on the records of the department. Such record may be made and maintained electronically. Such record shall be deemed to be entered on the date that such record is entered electronically on the records of the department. Such entry shall constitute notice to all parties.
- b. All expenses incurred by the department for the repair or the elimination of any dangerous or unlawful conditions therein, pursuant to this chapter or any other applicable provision of law, shall constitute a lien upon the premises when such charge is due and payable, which, notwithstanding any other provision of law, shall be the due and payable date for such charge provided on the second statement of account containing such charge. Such lien shall have a priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. However, no lien created pursuant to this chapter shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless the requirements of subdivision a of this section are satisfied; this limitation shall only apply to transactions occurring after the date such record should have been entered pursuant to subdivision a and the date such entry was made.
- c. A notice thereof, stating the amount due and the nature of the charge, shall be sent by the department of finance in accordance with section 11–129 of the administrative code, and

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such charge shall be due and payable, notwithstanding any other provision of law, on the due and payable date provided on the second statement of account containing such charge.

- d. If such charge is not paid by the date when such charge is due and payable in accordance with subdivision c of this section, it shall be the duty of the department of finance to receive interest thereon, to be calculated to the date of payment from the due and payable date. The rate of interest applied to such unpaid charge shall be the higher of seven percent per annum, or the rate applicable to such premises for nonpayment of taxes on real property pursuant to subdivision (e) of section 11-224.1.
- e. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of the administrative code and may be sold, enforced or foreclosed in the manner provided in chapters three and four of title eleven of the administrative code or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law.
- f. Any statement sent by the department of finance pursuant to this section shall have included thereon a reference to article eight of this subchapter.

§27-2145 **Establishment of lien.** The department shall include among its records a statement that such expenses were necessary and proper in the exercise of its lawful powers. Such statement may be made and maintained electronically.

§27-2146 **Validity of lien; grounds for challenge.**

- a. In any proceedings to enforce or discharge the lien, the validity of the lien shall not be subject to challenge based on:
 - (1) The lawfulness of the repair or other work done; or
 - (2) The propriety and accuracy of the expense for which a lien is claimed, except as provided in this section.
- b. No challenge may be made except by (1) the owner of the property, or (2) a mortgagee or lienor whose mortgage or lien would, but for the provisions of section 27-2144 of this article, have priority over the department's lien.
- c. An issue specified in subdivision a which was decided, or could have been contested, in a prior court proceeding to secure a court order to repair under article five of this subchapter or to secure the appointment or the discharge of a receiver under article six of this subchapter, shall not be open to reexamination, but if any mortgagee or lienor entitled to notice of such prior proceeding was not served and did not appear therein, his or her mortgage or lien shall have priority over the lien of the department. In addition to this limitation, an owner who has been served with a statement pursuant to section 27-2129 of article five of this subchapter, or his successor in interest, may not subsequently contest the expense contained therein unless such owner or successor in interest notified the department in writing of his or her objection to the statement of account in the manner and within the time period provided in section 27-2129 of article five of this subchapter.
- d. With respect to any issue specified in subdivision a which is not subject to subdivision c, the statement of the department made pursuant to section 27-2145 of this article shall be presumptive evidence of the facts stated therein.

§27-2147 **Levy on rents.**

- a. The department may serve upon any person liable for rent or other compensation for the occupancy of premises subject to this article a notice containing:

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- (1) a statement of the contents of the certificate filed pursuant to section 27-2145 of this article, or of a judgment in an action under section 27-2116 of article two of this subchapter or section 27-2143 of this article or in an action to enforce a lien under this article;
 - (2) a statement of the amount remaining due under such certificate or judgment; and
 - (3) a demand that rent thereafter be paid to the department as it comes due. Service of the notice shall be made by personal delivery of a copy thereof, or by certified mail.
- b. Upon receipt of such notice, the person to whom it is directed shall pay any rent due, and future rent as it comes due, to the department in the manner set forth in the demand. The department may, upon failure to pay, sue for rent due. In such suit, the validity of proceedings prior to the issuance of the notice under subdivision a of this section shall not be subject to question.
 - c. The department shall issue a receipt for each sum paid under this section. Such payment and receipt shall for all purposes have the same legal effect as payment to or a receipt from the owner or other person authorized to collect rent. No person shall be subject to any proceedings for the recovery of possession or other relief, or any penalty or forfeiture, arising out of his or her failure to pay to any person any sum paid to the department under this section.
 - d. The department shall, at the time of service of any notice under subdivision a, give the owner and agent notice by certified mail at their last registered address, or other address, if known, of such action. Unless within twelve days of such notice suit has been instituted by or on behalf of the owner to restrain such action or recover from the department any sums collected, the action of the department shall not be subject to challenge.
 - e. Upon collection of the total sum owing to the department, it shall forthwith serve, upon each person served with a demand under subdivision a of this section, a notice cancelling such demand.

§27-2148 Appointment of receiver.

- a. Whenever the sum of any lien or liens established by this chapter, plus any lien or liens established pursuant to any other section of the administrative code for the expenses of repairs made by the department, shall amount to five thousand dollars or more, the department may issue an order appointing the commissioner of the department of housing preservation and development receiver of the rent and profits of the premises. Such receiver may be appointed upon thirty days' notice to the owner, mortgagees and lienors of record of such premises. Such notice shall contain the amounts of such lien or liens and give the owner, mortgagees and lienors of record an opportunity to either pay the outstanding liens or to contract in writing with the department on terms satisfactory to the department for such payment. Any mortgagee or lienor who pays the department shall be assigned the department's lien.
- b. A receiver appointed pursuant to this section shall have all of the powers and duties of a receiver appointed in an action to foreclose a mortgage on real property. Such receiver shall not be required to file any bond.
- c. The receiver shall be entitled to the same fees, commissions and necessary expenses as receivers in actions to foreclose mortgages. Such fees and commissions shall be paid into the fund created pursuant to section 27-2111 of article one of this subchapter. The receiver shall be liable only in his or her official capacity for injury to person and property by reason of

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conditions of the premises in a case where an owner would have been liable; such receiver shall not have any liability in his or her personal capacity.

- d. Such receivership shall continue until the amount of such liens and the commissions have been fully paid. Upon the termination of such receivership, an accounting shall be given to the owner together with any moneys collected in excess of the lien and commission and the department shall, within twenty-one days, file a satisfaction of any and all liens filed by the department against such premises.

ARTICLE 9 WITHDRAWAL OF SINGLE ROOM OCCUPANCY DWELLING UNITS FROM THE RENTAL MARKET PROHIBITED

§27–2150 **Definitions.** For the purposes of this article the terms single room occupancy multiple dwelling and single room occupancy dwelling unit shall be as defined in subdivision b of section 27–198.2 of the code.

§27–2151 **Withdrawal of single room occupancy dwelling units from the rental market prohibited.**

- a. On and after June first, nineteen hundred eighty-seven, an owner of a single room occupancy multiple dwelling which is subject to the provisions of this section shall have a duty
 - (1) to make habitable and maintain in a habitable condition all single room occupancy dwelling units and
 - (2) to rent such habitable single room occupancy dwelling units to bona fide tenants. The duty to rent shall be satisfied by the owner if the owner has in fact rented all such units to bona fide tenants or has, in good faith, made a continuing public offer to rent such units at rents no greater than the rent authorized by law.
- b. The provisions of this section shall apply to all single room occupancy multiple dwellings which are subject to the provisions of subdivisions a and c of section 27–198.2 of the code during the time such subdivisions a and c are in full force and effect except:
 1. any single room occupancy multiple dwelling which is exempted or for which an application for exemption from the provisions of subdivisions a and c of section 27–198.2 of the code has been filed pursuant to paragraphs one, two, or three of subdivision d of section 27–198.2; provided, however, that the provisions of this section shall apply to a single room occupancy multiple dwelling on and after the sixtieth day after the date that an application for exemption pursuant to such paragraphs of such subdivision is denied.
 2. any single room occupancy dwelling unit with respect to which a payment has been made or a replacement unit has been provided pursuant to subparagraph a of paragraph four of subdivision d of section 27–198.2 of this code.
 3. any single room occupancy multiple dwelling for which an application for reduction in payment or replacement units has been made pursuant to subparagraph (b) of paragraph four of subdivision d of section 27–198.2 has been made; provided, however, that an owner shall be required to maintain the same level of occupancy in such multiple dwelling which existed on September twelfth, nineteen hundred eighty-six and provided, further, that the provisions of this section shall apply to such dwelling on and after the sixtieth day after such application is denied.

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§27-2152 Enforcement.

- a. If the commissioner has reasonable cause to believe that an owner has violated the provisions of subdivision a of section 27-2151, the commissioner shall serve a notice of violation and an order to correct such violation on the owner pursuant to sections 27-2091 and 27-2095 of this code. The order shall require the owner to comply with subdivision a of section 27-2151 in the manner specified in such order within ten days. A copy of the order shall be filed with the city register and any subsequent purchaser of the property shall be subject to such order.
- b. An owner may apply within the ten day period following service of the notice and order:
 1. for the revocation of the notice of violation and order on the ground that the condition alleged to constitute the violation did not exist at the time the violation was placed. The department may grant such revocation upon the presentation of proof satisfactory to the department; or
 2. for an extension of the time for correction. The department may, upon good cause shown, including consideration of the complexity of repairs which may be necessary to make the dwelling unit habitable, grant such extension for such period of time that it deems appropriate.
- c. The owner shall certify correction of the violation in accordance with subdivision f of section 27-2115 no later than five days after the date set for corrections. Such certification shall be supported by a sworn statement by the owner that the units which are the subject of notice of violation have been rented to bona fide tenants or that the owner has, in good faith, made a continuing public offer to rent such units at rents no greater than the rents authorized by law. The department may require such additional proof as it deems necessary, including but not limited to the specific units offered for rent and the rents asked therefor.
- d. For the purposes of this section there shall be a rebuttable presumption that an owner has violated the provisions of subdivision a of section 27-2151 if a single room occupancy dwelling unit is not occupied by a bona fide tenant for a period of thirty days or longer.
- e.
 1. An owner who violates the provisions of subdivision a of section 27-2151 shall be subject to a civil penalty of five hundred dollars for each single room occupancy dwelling unit cited in the notice and order issued pursuant to subdivision a of this section. In addition, an owner who fails to comply with the order within the time specified in the order or within such further period of time authorized by the department pursuant to subdivision b of this section shall be subject to a civil penalty of two hundred fifty dollars per day for each dwelling unit to be calculated from a date ten days after service of the order to the date of compliance therewith.
 2. In addition to the civil penalties provided in paragraph one of this subdivision any owner who willfully makes a false certification that a violation has been corrected shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars for each dwelling unit or units which are the subject of the notice of violation. Such owner shall also be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars, or by imprisonment up to six months, or by both such fine and imprisonment.
 3. Such civil penalties may be recovered by the city in an action in any court of competent jurisdiction. A judgment obtained in such an action shall constitute a lien against the premises with respect to which the violation occurred from the time of the filing of a notice of pendency in the office of the clerk of the county in which such premises is

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- situated. A notice of pendency may be filed at the time of the commencement of the action or at any time before final judgment or order.
- f. All civil penalties recovered pursuant to subdivision e of this section shall be paid to the single room occupancy housing development fund company established pursuant to subdivision i of section 27-198.2 of the administrative code.
 - g.
 - 1. The city may institute an action in a court of competent jurisdiction for an order requiring the owner to comply with the order to correct or for such other relief as may be appropriate.
 - 2. The city may make application for the appointment of a receiver in accordance with the procedures contained in article six of this subchapter. Any receiver appointed pursuant to this paragraph shall be authorized, in addition to any other powers conferred by law, to effect compliance with the provisions of this article. Any expenditures incurred by the receiver to effect such compliance shall constitute a debt of the owner and a lien upon the building and lot, and upon the rents and income thereof, in accordance with the procedures contained in such article six. The city in its discretion may provide funds to be expended by the receiver, and such funds shall constitute a debt recoverable from the owner in accordance with article eight of this subchapter.
 - h. In the event of any inconsistency between the provisions of this article and other provisions of this code the provisions of this article shall control.

ARTICLE 10 ALTERNATIVE ENFORCEMENT PROGRAM

§27-2153 **Alternative Enforcement Program.** The department shall establish an alternative enforcement program and identify distressed buildings for participation in such program. Notwithstanding any other provision of law, the department shall enforce violations of this code and the multiple dwelling law pursuant to such program, as follows:

- a. The department shall identify no fewer than two hundred different distressed buildings for participation in the alternative enforcement program in each of the first two years of such program. For purposes of this subdivision the criteria used to identify distressed buildings shall be:
 - (i) twenty-seven or more open hazardous or immediately hazardous violations of record which were issued by the department within the two-year period prior to identification of the building for such program; and
 - (ii) a ratio of open hazardous and immediately hazardous violations which were issued by the department within the two-year period prior to identification of the building for such program that equal in the aggregate five or more such violations for every dwelling unit in the multiple dwelling; and
 - (iii) unpaid emergency repair charges, including liens, in a ratio of one hundred or more dollars for each dwelling unit in the multiple dwelling which were incurred within the two-year period prior to identification of the building for such program.
- b. In the third year of such program the department shall identify no fewer than two hundred different distressed buildings for participation in the alternative enforcement program. The criteria used to identify distressed buildings in such year shall be:

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- (i) twenty-five or more open hazardous or immediately hazardous violations which were issued by the department within the two-year period prior to identification of the building for such program; and
 - (ii) a ratio of open hazardous and immediately hazardous violations which were issued by the department within the two-year period prior to such identification that equal in the aggregate five or more such violations for every dwelling unit in the multiple dwelling; and
 - (iii) unpaid emergency repair charges, including liens, in a ratio of one hundred or more dollars for each dwelling unit in the multiple dwelling which were incurred within the two-year period prior to such identification.
- c.
- (1) In the fourth year and each succeeding year of such program the department shall identify no fewer than two hundred different distressed buildings for participation in the alternative enforcement program. The criteria used to identify distressed buildings in such years shall be:
 - (i) in a multiple dwelling that contains not less than three and not more than nineteen units, a ratio of open hazardous and immediately hazardous violations which were issued by the department within the two-year period prior to such identification that equals in the aggregate five or more such violations for every dwelling unit in the multiple dwelling, and in a multiple dwelling that contains not less than twenty units, a ratio of open hazardous and immediately hazardous violations which were issued by the department within the two-year period prior to such identification that equals in the aggregate three or more such violations for every dwelling unit in the multiple dwelling; and
 - (ii) paid and unpaid emergency repair charges, including liens, which were incurred within the two-year period prior to such identification, of two thousand five hundred or more dollars in a multiple dwelling that contains not less than three and not more than nineteen units, and paid and unpaid emergency repair charges, including liens, which were incurred within the two-year period prior to such identification, of five thousand or more dollars in a multiple dwelling that contains twenty or more units.
 - (2) Notwithstanding the provisions of paragraph one of this subdivision, in the sixth year of such program, and for each succeeding year, the department shall identify no fewer than two hundred different distressed buildings for participation in the alternative enforcement program and may by rule revise criteria related to the ratio of open hazardous and immediately hazardous violations per dwelling unit and the amount or ratio per dwelling unit of paid and unpaid emergency repair charges which must exist for a building to qualify for participation in the program.
 - (3) Notwithstanding the provisions of paragraphs one and two of this subdivision, in the ninth year of such program, and for each succeeding year, the department shall identify no fewer than two hundred fifty different distressed buildings for participation in the alternative enforcement program and may by rule set criteria for such buildings to participate in the program, which may include, but need not be limited to: the ratio of open hazardous and immediately hazardous violations per dwelling unit, the amount or ratio per dwelling unit of paid or unpaid emergency repair charges and the number of dwelling units that must exist for a building to qualify for participation in the program.

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The department may by rule add to the criteria set forth in subdivision e of this section relating to which buildings are to be excluded from the program.

- d. For the purposes of subdivisions a and b of this section, those buildings having the highest aggregate ratio of open hazardous and immediately hazardous violations for every dwelling unit shall be the buildings identified first for participation in the program. For the purposes of paragraph one of subdivision c of this section, those buildings having the highest amount of paid and unpaid emergency repair charges and liens incurred within the two-year period prior to identification shall be the buildings identified first for participation in the program. For the purposes of paragraphs two and three of subdivision c of this section, the department shall by rule determine the criteria for which buildings shall be identified first for participation in the program.
- e.
 - (1) Notwithstanding the criteria set forth in subdivisions a, b, and c of this section, a building that is currently the subject of an in rem foreclosure action by the city, or that was the subject of an in rem foreclosure judgment in favor of the city and that was transferred by the city to a third party pursuant to section 11-412.1 of the code within the prior five years, or that is currently the subject of a court order appointing or a proceeding brought by the department seeking the appointment of an administrator pursuant to article 7-A of the real property actions and proceedings law, shall not be included in the alternative enforcement program.
 - (2) Notwithstanding the criteria set forth in subdivisions a, b, and c of this section, a multiple dwelling that is the subject of a loan provided by or through the department or the New York city housing development corporation for the purpose of rehabilitation, as provided in rules of the department, and that has closed within the past two years, shall not be included in the alternative enforcement program, provided further, that a multiple dwelling that has been included in the alternative enforcement program and becomes the subject of such a loan that closes within the first four months after the building has been included in the alternative enforcement program, shall be discharged from such program.
- f. Where there are fewer than two hundred fifty buildings that meet the applicable criteria, the department shall by rule determine the criteria for additional buildings to participate in the alternative enforcement program.
- g.
 - (1) The department shall within thirty days of identifying a distressed building for participation in the alternative enforcement program provide written notification to the owner of such building, the occupants of such building and the council member in whose district the building is located, that such building is subject to the requirements of such program and the requirements of this article. Such written notification shall inform such owner of his or her duty to post the notice required by paragraph two of this subdivision and that such owner shall be liable for a civil penalty for failure to comply. The department shall simultaneously provide to such owner information about correcting violations related to mold and vermin, when such violations are applicable to such multiple dwelling, as set forth in paragraphs ii and iii of subdivision i of this section.
 - (2) Within fifteen days after receiving notice from the department in accordance with paragraph one of this subdivision, or such later date as the department may specify in such notice, the owner of a building identified for participation in the alternative

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enforcement program shall post a sign on the building's main entrance door, or in another conspicuous location in the common area of the building, stating

- (i) that the building has been placed in the alternative enforcement program,
- (ii) that occupants may call 311 or the program's direct line to make complaints about the conditions in their units or in the common areas,
- (iii) the name, telephone number and address of the owner and
- (iv) the identity of the financial institution that holds the mortgage on the property, if any.

Such sign shall be in English, Spanish and in any other language the department may require by rule. Upon request of a tenant occupying a dwelling unit in the building, the owner shall make best efforts to provide the sign in a language other than English or Spanish. The owner shall maintain such sign until he or she receives written notice from the department that the building has been discharged from the alternative enforcement program. An owner who fails to comply with the requirement to post and maintain a sign pursuant to this subdivision shall be liable for a penalty of two hundred fifty dollars.

- h. The department shall establish a process to provide the occupants of buildings participating in the alternative enforcement program and council members within whose districts such buildings are located with information regarding the status of the building during participation in such program.

i.

- (i) The owner of a building that is identified for participation in the alternative enforcement program shall be required to respond in writing to the notification provided pursuant to subdivision g of this section whether he or she intends to correct the existing violations of this code and the multiple dwelling law in such building. Such owner shall correct the existing violations of this code and the multiple dwelling law in such building no later than four months after written notification by the department pursuant to subdivision g of this section, provided, however, that the original correction date for any violation issued in such building shall not be deemed to be changed or postponed by such notification. Nothing in this subdivision shall preclude the department from determining after such identification that the provisions of subdivision k may be immediately implemented. Where such owner believes that such violations have been corrected, such owner shall request a reinspection of such violations for dismissal by the department. The process to request a reinspection and dismissal of such violations shall be prescribed in rules promulgated by the department. The department shall perform a reinspection within sixty days of receipt of a request for such reinspection by the owner and upon completion of such reinspection the department shall assess whether such owner has substantially complied with the requirements of this subdivision. The department shall issue a notice of violation for any new violation observed in the course of such reinspection. After completion of such reinspection, the department shall within twenty days provide a written determination to such owner. For the purposes of this subdivision, "substantial compliance" shall mean that at the time of reinspection by the department, all violations relating directly to providing heat and hot water and all immediately hazardous violations related to mold, eighty percent of all hazardous violations related to mold, eighty percent of all vermin violations and eighty percent of all other open hazardous and immediately hazardous violations have been determined by the department to have been corrected. A violation relating to mold shall only be deemed corrected if the violation has been

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corrected in accordance with paragraph ii of this subdivision and a violation relating to vermin shall only be deemed corrected if such violation has been corrected in accordance with paragraph iii of this subdivision.

- (ii) With respect to mold violations, the owner of a building participating in the alternative enforcement program shall correct such violations by investigating and correcting identified moisture problems prior to or as part of the mold removal work; informing building occupants about commencement of mold removal work; providing building occupants with a copy of the department of health and mental hygiene's brochure about mold and requiring, to the extent practicable, occupants to leave the work area before work begins; removing, or securely covering with plastic sheeting, any difficult-to-clean surfaces or items in the immediate work area before mold removal work begins; ensuring that all mold removal work is done in a manner that minimizes the dispersion of dust and debris from the work area into other parts of the dwelling; removing and throwing away porous materials that contain mold growth and that cannot be cleaned, or materials that are saturated with water and that cannot be dried; discarding any plastic sheeting, materials with mold growth, and used sponges, mop heads and cleaning wipe cloths in sealed heavy-duty plastic bags; cleaning any remaining visible dust from the mold removal work using wet cleaning methods or by HEPA-vacuuuming and cleaning mold growth with soap or detergent and water, not bleach or other biocide solutions. When such mold removal work has been completed, such owner shall document all corrective actions taken for identifying and repairing moisture sources and mold removal work methods that were used, inform occupants of the building that if mold growth or moisture recurs they should inform the building owner, and shall provide a certification to the department that such actions have been taken.
- (iii) With respect to vermin violations, the owner of a building participating in the alternative enforcement program shall correct such violations by eliminating conditions conducive to vermin infestation, including but not limited to, areas allowing access to vermin, leaking plumbing, and uncontained garbage and debris, and eliminating sources of water and food for pests. Owners shall inform building occupants about the commencement of pest management treatment and provide occupants with a copy of the department of health and mental hygiene's brochure on controlling pests safely. Owners shall request that occupants support the pest management treatment by preparing the kitchen, bathroom and other areas as needed and that occupants be available to listen to advice on how to maintain pest-free conditions, including clean up, food storage, management of garbage, and selection of safer pest control products. Such owner shall also address such violations by utilizing pesticide applications or devices as permitted by state and federal law. No person may perform pesticide applications unless that person is a certified applicator pursuant to article 33 of the environmental conservation law or is supervised by a certified applicator. An owner shall caulk and seal small holes less than four inches in diameter, cracks and crevices in or in between walls, cabinets, floors, and in other locations where vermin may gain access. A HEPA-vacuum shall be utilized in kitchens and bathrooms, including in cracks, crevices and appliances in such rooms. When such pest management work has been completed, such owner shall document all corrective actions taken to address vermin violations including work methods and products used, provide information to occupants of the building about ways to control pests safely, inform building occupants that they should report recurrent or persistent pest problems to

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the owner, and provide a certification to the department that such actions have been taken. In addition, for a multiple dwelling in which vermin infestation is indicated the owner of such multiple dwelling shall submit a pest management plan indicating continuing pest control measures to the department of health and mental hygiene for approval which must be approved by such department prior to the discharge of such building from the program.

j.

- (i) Where an owner has received a written determination by the department that he or she has substantially complied with the requirements of subdivision i of this section, such owner shall pay to the department all outstanding charges, including liens, for emergency repair work performed by the department in such building that are due, if any, or shall enter into an agreement with the department of finance to pay such charges and liens, and shall register the building in accordance with article two of subchapter four of chapter two of this title if the building is not validly registered. Upon such payment, or execution of such an agreement, and valid registration, where applicable, the department shall notify the owner, the occupants in such building and the council member in whose district such building is located that the building has been discharged from participation in the alternative enforcement program, provided, however, that the department shall continue to monitor the building to ensure continued compliance with this code. Such monitoring shall be performed not less often than every three months for a period of at least one year with special consideration given to any uncorrected immediately hazardous violations.
- (ii) Except as provided in subdivision l of this section, the failure by an owner to substantially comply with the provisions of subdivision i of this section, or pay all outstanding charges, including liens, for emergency repair work, if any, or enter into an agreement with the department of finance to pay such charges and liens, or validly register the building in accordance with article two of subchapter four of chapter two of this title, where applicable, shall result in the building remaining in the alternative enforcement program, and such building shall continue to be subject to the fees and other requirements applicable to such program. Upon such failure, the department shall notify such owner that the building has not been discharged from the alternative enforcement program.

k.

- (i) The department shall perform a building-wide inspection of a building that is subject to the requirements of the alternative enforcement program if:
 - (1) the owner has been notified that such building has not been discharged from the program pursuant to subdivision i of this section, or
 - (2) the owner has failed to respond to written notification by the department in accordance with subdivision g of this section. Such building-wide inspection shall be commenced no later than thirty days after notice is given to the owner pursuant to paragraph ii of subdivision j of this section. After such building-wide inspection is completed, the department shall issue an order to such owner to correct existing violations of this code and the multiple dwelling law and any new violations written since the notification of the owner in accordance with subdivision g of this section and repair the related underlying conditions as shall be specified in such order,

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provided, however, that if such inspection does not indicate that any building systems must be repaired or replaced, the order may be limited to requiring the owner to correct violations of this code and the multiple dwelling law and any physical defects. Such building-wide inspection shall be completed and such order issued within ninety days of commencement of the building-wide inspection. Such order shall be filed in the office of the county clerk in the county in which the building is located. For purposes of this article, a "related underlying condition" shall mean a physical defect or failure of a building system that is causing or has caused a violation, such as, but not limited to, a structural defect, or failure of a heating or plumbing system.

(ii) The department shall:

- (1) within thirty days of the filing of such order prepare a scope of work necessary to correct the violations and repair the related underlying conditions as are specified in such order;
- (2) cause repair work to be commenced and expeditiously completed unless there are circumstances beyond the control of the department such as: the inability to obtain access to the building or any part thereof necessary for the making of such repairs in which case the repairs related to the portion of the building to which access could not be obtained may be delayed until access is obtained; or the inability to obtain necessary legal approvals, materials or labor; or there is ongoing litigation with respect to the building that prevents such work from being performed by the department; or the owner undertakes the repair work in a manner that is satisfactory to the department; or commencement or completion of the work is not practicable because a vacate or similar order has been issued by the department or any city agency and/or the cost of performing work necessary for restoring the building pursuant to the order is economically infeasible; and
- (3) monitor repair work as it is performed in accordance with subdivision m of this section. For the purposes of this subdivision, "economically infeasible" shall mean a determination by the department that the cost of repairing a particular building exceeds the anticipated market value of such building after all repairs have been completed. However, any determination by the department that, for the purposes of this subdivision, repairs to a particular building would be economically infeasible for the department to undertake, shall not take into consideration the owner's conduct with respect to the building.

(iii) When the department causes repair work to be commenced in accordance with paragraph ii of this subdivision, in a multiple dwelling in which vermin infestation is indicated, vermin violations shall be corrected in accordance with paragraph iii of subdivision i of this section. The department shall also require the owner of such multiple dwelling to submit to the department of health and mental hygiene for their approval a pest management plan indicating continuing pest control measures. Such plan must be approved by the department of health and mental hygiene prior to the discharge of such building from the program.

1. The owner or managing agent or other designated representative of a building which is the subject of an order by the department pursuant to subdivision k of this section may be

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required to participate in a course of training relating to building operation and maintenance, approved by the department.

- m. The department shall reassess, at quarterly intervals, or more often as necessary, each building that has been identified for participation in the alternative enforcement program for which the department has issued an order pursuant to subdivision k of this section and in which the department or an owner has commenced repairs, to ensure progress towards completion of such repairs. At each such reassessment the department shall determine whether repairs are progressing in a timely fashion. When conducting such reassessment the department shall give special consideration to the correction of immediately hazardous violations. No later than six months from the commencement of such repair work, if the department determines that such repair work is not progressing in a timely fashion, then the department shall expeditiously complete the repairs.
- n. The department may discharge from the alternative enforcement program a building for which an order has been issued pursuant to subdivision k of this section upon:
 - (1) substantial compliance,
 - (2) payment of fees,
 - (3) payment to the department of all outstanding emergency repair charges, including liens, or entry into an agreement with the department of finance to pay such charges and liens, and
 - (4) registration of such building in accordance with article two of subchapter four of chapter two of this title or such other criteria as may be established by rule which are not inconsistent with any of the provisions of this article as are applicable. The department may also discharge from the alternative enforcement program any building for which an administrator is appointed pursuant to article 7-A of the real property actions and proceedings law during the time period that such building is participating in the program; any building that is vacant for one year or more except for any building that contains six or more units and is the subject of a vacate order; any building that becomes the subject of an in rem foreclosure judgment in favor of the city and that is transferred by the city to a third party pursuant to section 11-412.1 of the code; and any building in which the department has completed the work it is required to perform pursuant to subdivision k of this section. Where the department determines to discharge a building from such program, it shall provide a written determination to the owner, the occupants of such building and the council member in whose district such building is located and shall file in the office of the county clerk in the county in which such building is located, a rescission of the order issued pursuant to subdivision k of this section, where such order has been issued. For the purposes of this subdivision, "substantial compliance" shall mean that at the time of reinspection by the department, all violations relating directly to providing heat and hot water and all immediately hazardous violations related to mold, eighty percent of all hazardous violations related to mold, eighty percent of all vermin violations and eighty percent of all other open hazardous and immediately hazardous violations and the related underlying conditions, have been determined by the department to have been corrected. A violation relating to mold shall only be deemed corrected if the violation has been corrected in accordance with paragraph ii of subdivision i of this section and a violation relating to vermin shall only be deemed corrected if such violation

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has been corrected in accordance with paragraph iii of subdivision i of this section and, when applicable, paragraph iii of subdivision k of this section.

- o. The department shall expeditiously undertake good faith efforts to obtain access to any portion of the building where access is necessary in order to perform an inspection, perform work to correct a violation of this code or the multiple dwelling law or perform work to repair a related underlying condition. If access is not obtained even after such good faith efforts, the department shall seek an order of access in accordance with the provisions of section 27-2123 of this code. Any time period set forth in this section within which the department is required to act shall be tolled during the period in which the department is making such good faith efforts to obtain access or is seeking an order of access.
- p. An owner of a building who has been notified of participation in the alternative enforcement program pursuant to subdivision g of this section shall be subject to fees for any inspection, reinspection or any other action taken by the department in relation to such building during the time period that the building is in such program. A schedule of fees for this purpose shall be prescribed in rules promulgated by the department.
- q. All amounts for expenses incurred and fees imposed by the department pursuant to this article that remain unpaid by an owner, shall constitute a debt recoverable from the owner and a lien upon the building and lot, and upon the rents and other income thereof. The provisions of article eight of this subchapter shall govern the effect and enforcement of such debt and lien. The department may serve a statement of account upon an owner for such amounts pursuant to section 27-2129 of this subchapter.
- r. Any failure by the department to provide notification to occupants of a building that is participating in the alternative enforcement program or council members as required by this article shall not prevent the department from taking any actions under or enforcing the provisions of this article, except that the department shall attempt to remedy any such failure immediately upon its discovery.
- s. On or before February 15th of each year, the department shall prepare and submit to the council a report on the results of the alternative enforcement program. Such report shall be cumulative and shall include the following:
 - (i) the address and owner of each building in the program;
 - (ii) the council member in whose district the building is located;
 - (iii) for each building, the aggregate number of open hazardous and immediately hazardous violations at the time the alternative enforcement program was used as an enforcement mechanism for such building, the ratio of such violations and unpaid and paid emergency repair charges or liens, as is applicable, to the number of dwelling units at such time, whether or not the building has been discharged from the program and the reason for such status; and
 - (iv) the number of buildings for which substantial compliance has not been achieved within twelve months from the start of their participation in the program. Such report shall be posted on the department's website within ten days of its submission to the council.
- t. Nothing in this section shall prevent the department from enforcing the provisions of this code or the multiple dwelling law pursuant to any other provision of this code, the multiple

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dwelling law or any other law where the department determines that additional enforcement mechanisms are necessary to do so. Nothing in this article shall be deemed to affect the duties of an owner, a tenant or the department under any other article of this code or the multiple dwelling law.

- u. Any notifications or information required by this section to be provided to an owner or occupant of a building shall be in English, the languages set forth in subdivision j of section 8-1002 of the administrative code of the city of New York and in such other languages as the department deems appropriate.
- v. No later than July 31, 2012 and every two years thereafter the department shall conduct a study to evaluate the effectiveness of the alternative enforcement program. Such study shall examine, but shall not be limited to examining, the following:
 - (1) the program's cost effectiveness, including the amount of fees collected;
 - (2) whether the criteria established pursuant to subdivisions a, b or c of this section were appropriate and if not, how they should be adjusted;
 - (3) whether the monitoring undertaken by the department is appropriate and if not, what modifications should be made;
 - (4) an evaluation of the use of the work practices identified in paragraph ii of subdivision i of this section to address mold conditions including the reoccurrence of mold;
 - (5) for those multiple dwellings in which a building-wide inspection was conducted, an assessment of whether mold was identified in such multiple dwellings and whether the criteria for the issuance of a violation for mold should be revised or enhanced as a result;
 - (6) an evaluation of the use of the work practices identified in paragraph iii of subdivision i of this section to address vermin conditions;
 - (7) information on the compliance levels achieved by multiple dwellings which remain in the program for failure to achieve substantial compliance and recommendations on how to achieve higher compliance levels for those multiple dwellings; and
 - (8) for those multiple dwellings that were discharged from the program, information on the number of such buildings that were able to correct all identified violations prior to discharge or that were able to achieve a higher compliance level than required by this program in order to be discharged and an assessment of why such buildings were able to achieve such results.

Such study shall also include recommendations as to whether the program should be continued or modified in any way and the reasons therefore.