

Housing Maintenance Code Section 27-2004

48. *[Effective until Feb. 4, 2018]* 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:

[Effective Feb. 5, 2018] 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;

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;

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;

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. contacting any person lawfully entitled to occupancy of such dwelling unit 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, unless such owner discloses to such person in writing (i) at the time of the initial contact, and (ii) in the event that contacts continue more than 180 days after the prior written disclosure, at the time of the first contact occurring more than 180 days after the prior written disclosure:

- (1) 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;
- (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

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 such person to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, including improperly requiring such person to seek, receive or refrain from submitting to medical treatment in violation of subdivision b of section 26-1201.

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.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a par 4 repealed and added L.L. 8/2008 § 1, eff. July 1, 2008.

Subd. a par 4 subpar (ii) amended L.L. 27/1998 § 27, eff. Sept. 5, 1998.

Subd. a par 8 subpar (a) amended chap 225/2010 § 7, eff. May 1, 2011 per chap 566/2010 § 3.
Subd. a pars 25, 26 amended chap 559/1995 § 10, eff. Jan. 1, 1996. [See Note 1]
Subd. a par 48 added L.L. 7/2008 § 1, eff. Mar. 13, 2008.
Subd. a par 48 opening par amended L.L. 162/2017 § 1, eff. Dec. 28, 2017. [See Note 5]
Subd. a par 48 opening par amended (laid out second) L.L. 184/2017 § 1, eff. Feb. 5, 2018. [See Note 8]
Subd. a par 48 subpar b amended L.L. 164/2017 § 1, eff. Dec. 28, 2017. [See Note 7]
Subd. a par 48 subpar b-1 added L.L. 164/2017 § 1, eff. Dec. 28, 2017. [See Note 7]
Subd. a par 48 subpar d amended L.L. 164/2017 § 2, eff. Dec. 28, 2017. [See Note 7]
Subd. a par 48 subpar d-1 added L.L. 164/2017 § 2, eff. Dec. 28, 2017. [See Note 7]
Subd. a par 48 subpar f amended L.L. 83/2015 § 2, eff. Dec. 2, 2015. [See Note 4]
Subd. a par 48 subpar f-1 added L.L. 83/2015 § 3, eff. Dec. 2, 2015. [See Note 4]
Subd. a par 48 subpar f-2 added L.L. 82/2015 § 2, eff. Dec. 2, 2015. [See Note 3]
Subd. a par 48 subpar f-3 added L.L. 81/2015 § 2, eff. Dec. 2, 2015. [See Note 2]
Subd. a par 48 subpar f-3 clause (4) amended L.L. 163/2017 § 1, eff. Dec. 28, 2017. [See Note 6]
Subd. a par 48 subpar f-4 added L.L. 163/2017 § 2, eff. Dec. 28, 2017. [See Note 6]
Subd. a par 48 subpar g amended L.L. 15/2017 § 2, eff. May 16, 2017.

DERIVATION

Formerly § D26-1.07 added LL 56/1967 § 1
Sub a par 5 amended LL 18/1969 § 1
Sub a par 45 amended LL 18/1969 § 2
Sub a par 10 amended LL 20/1971 § 1
Sub a par 45 amended LL 19/1983 § 6
Sub a pars 5, 45 amended ch 805/1984 § 111
Sub a par 27 subpars c, d amended LL 2/1985 § 1

NOTE

1. Provisions of chap 559/1995 § 11:

§ 11. Cooking spaces shall be deemed to be in compliance with the provisions of the multiple dwelling law amended by this act if such spaces were approved by the department, as defined in subdivision 3 of section 4 of the multiple dwelling law, on or before June 30, 1995. A kitchen shall be deemed to be in compliance with the provisions of the administrative code of the city of New York amended by this act if such kitchen was approved by the department of buildings of the city of New York on or before June 30, 1995.

2. Provisions of L.L. 81/2015:

Section 1. Declaration of legislative intent and findings. a. The council finds and declares that:

1. Although there are legitimate reasons for building owners to offer tenants money or other valuable consideration to vacate their apartments, in recent years, and due in part to rapidly increasing rents, some owners have engaged in abusive and intimidating behaviors to coerce such tenants into accepting these buyout offers and leaving their homes; and

2. The rights of building owners to make these buyout offers must be balanced with the rights of tenants to negotiate or refuse such offers and to be free of harassment.

b. As a result, it is necessary and appropriate to place reasonable time, place and manner restrictions on the making of these buyout offers in order to protect tenants from harassment while still allowing owners and tenants to engage in negotiations over such offers.

3. Provisions of L.L. 82/2015:

Section 1. Declaration of legislative intent and findings. a. The council finds and declares that:

1. While there are legitimate reasons for building owners to make buyout offers to tenants by offering money or other valuable consideration to vacate their apartments, some tenants do not understand their rights with respect to buyout offers, including their right to reject such an offer and remain in their apartment or to seek guidance from an attorney, and some tenants do not understand what a buyout offer is or that such offer is being made on behalf of the owner of the building in which they reside;

2. Tenants cannot meaningfully accept, reject or negotiate such offers without such an understanding; and

3. The city has a substantial interest in balancing the rights of building owners to make these buyout offers with the rights of tenants to meaningfully accept, reject or negotiate such offers or to refuse contact regarding such offers.

b. The council finds that it is necessary and appropriate to require the disclosure of certain factual and uncontroversial information in connection with buyout offers in order to protect tenants from confusion or deception.

4. Provisions of L.L. 83/2015:

Section 1. Declaration of legislative intent and findings. a. The council finds and declares that:

1. Although there are legitimate reasons for building owners to make buyout offers to tenants by offering money or other valuable consideration to vacate their apartments, in recent years, and due in part to rapidly increasing rents, the use of repeated buyout offers, particularly where a tenant has rejected such an offer and expressed a desire to receive no further offers, has become a form of harassment; and

2. The city has a substantial interest in balancing the rights of building owners to make these buyout offers with the rights of tenants to negotiate or reject such offers and to be free from harassment in the form of repeated, unwanted buyout offers.

b. The council finds that it is necessary and appropriate to place limited, short-term restrictions on the making of these buyout offers in order to protect tenants from harassment while still allowing owners and tenants to engage in negotiations over such offers.

5. Provisions of L.L. 162/2017:

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

6. Provisions of L.L. 163/2017:

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

7. Provisions of L.L. 164/2017:

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

8. Provisions of L.L. 184/2017:

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.