



**THE CITY OF NEW YORK**  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

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September 30, 2020

**By Email to Counsel**

JUDITH GRUNBAUM,  
MOSHE DEUTSCH,  
SAMUEL GRUNBAUM,  
YHT MANAGEMENT, INC.  
1049 East 15th Street, Office,  
Brooklyn, NY 11230

**Re: 70 South Elliott Place, Brooklyn, NY**

To the Owners and Managers of 70 South Elliott Place,

It has come to the attention of this office that you have engaged in conduct with respect to tenants and occupants of the property you own or manage at 70 South Elliott Place, Brooklyn that may violate the New York City Unlawful Eviction Law (New York City Administrative Code §26-521 et seq.) and that may constitute tenant harassment under the Housing Maintenance Code (NYC Administrative Code §27-2004(48)). Copies of these laws are attached for your information.

We have received information indicating that you or agents in your employ may have engaged in numerous acts that violate the Unlawful Eviction Law and tenant protections of the Administrative Code, including threats of force, changing locks to tenants' doors without supplying keys to occupants, and otherwise engaging in conduct causing or is intending to cause persons lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or surrender rights as tenants.

In addition to prohibiting such acts, the law requires you:

to take all reasonable and necessary action to restore to occupancy an occupant of a dwelling unit who either vacates, has been removed from or is otherwise prevented from occupying a

dwelling unit as the result of any of the acts or omissions prescribed in subdivision a of this section and to provide to such occupant a dwelling unit within such dwelling suitable for occupancy, after being requested to do so by such occupant or the representative of such occupant, if such owner either committed such unlawful acts or omissions or knew or had reason to know of such unlawful acts or omissions, or if such acts or omissions occurred within seven days prior to such request.

NYC Administrative Code §26-521(b).

You are directed to cease and desist from unlawful activities as described in the Administrative Code. We invite you or your attorney to contact us to provide more facts and to discuss this matter further. This office may take further action, including filing an action for a court order directing compliance with the law and/or to impose penalties for violations of the law.

Sincerely yours,

Sherief Gaber  
Assistant Corporation Counsel

Enclosures(2): NYC Admin. Code §26-521; NYC Admin. Code §27-2004(48)

To:

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## § 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

(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 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.

(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 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.

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 fireresistive 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 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 firestair 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 firetower 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 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 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;

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,

(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,

(6) (i) the median asking rent for a dwelling unit in the same community district, provided that the department has reported such data pursuant to section 27-2096.2, within the previous twelve-month period; or

(ii) the median asking rent for a dwelling unit in the same community district with the same number of bedrooms, provided that the department has reported such data, pursuant to section 27-2096.2, within the previous twelve-month period,

(7) that there is no guarantee that such person will be able to rent a dwelling unit in the same community district with the same number of bedrooms as the dwelling unit that such person is currently lawfully entitled to occupancy of, for the same rent such person is paying at the time of such contact, and

(8) that additional factors may impact the ability of such person to rent a dwelling unit, including, but not limited to, the current employment and credit history of such person;

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;

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; or

f-7. threatening any person lawfully entitled to occupancy of such dwelling unit based on such person's actual or perceived status as an essential employee, status as a person impacted by COVID-19, or receipt of a rent concession or forbearance for any rent owed during the COVID-19 period; provided that for the purposes of this subparagraph:

(1) the term "COVID-19" means the 2019 novel coronavirus or 2019-nCoV;

(2) the term "COVID-19 period" means March 7, 2020 through the later of (i) the end of the first month that commences after the expiration of the moratorium on enforcement of evictions of any tenant residential or commercial set forth in executive order number 202.8, as issued by the governor on March 20, 2020 and extended thereafter or (ii) September 30, 2020, inclusive;

(3) the term "essential employee" means a person employed by or permitted to work at or for a business classified as an essential business by the New York state department of economic development in accordance with executive order number 202.6, as issued by the governor on March 18, 2020 and extended thereafter; and

(4) the term "person impacted by COVID-19" means a person who has experienced one or more of the following:

(i) such person was diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(ii) a member of such person's household was diagnosed with COVID-19;

(iii) such person was providing care for a family member or a member of such person's household who was diagnosed with COVID-19;

(iv) such person became unemployed, partially unemployed, or could not commence employment as a direct result of COVID-19 or the state disaster emergency declared in executive order number 202, as issued by the governor on March 7, 2020; or

(v) such person became primarily responsible for providing financial support for the household of such person because the previous head of the household died as a direct result of COVID-19;

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.

(Am. L.L. 2015/081, 9/3/2015, eff. 12/2/2015; Am. L.L. 2015/082, 9/3/2015, eff. 12/2/2015; Am. L.L. 2015/083, 9/3/2015, eff. 12/2/2015; Am. L.L. 2017/015, 2/15/2017, eff. 5/16/2017; Am. L.L. 2017/162, 8/30/2017, eff. 12/28/2017; Am. L.L. 2017/163, 8/30/2017, eff. 12/28/2017; Am. L.L. 2017/164, 8/30/2017, eff. 12/28/2017; Am. L.L. 2017/184, 10/8/2017, eff. 2/5/2018; Am. L.L. 2018/024, 12/31/2017, eff. 4/30/2018; Am. L.L. 2018/048, 1/11/2018, eff. 5/11/2018; Am. L.L. 2019/101, 6/8/2019, eff. 10/15/2019; Am. L.L. 2020/056, 5/26/2020)

**Editor's note:** For related unconsolidated provisions, see Appendix A at L.L. 2015/081, L.L. 2015/082, and L.L. 2015/083.

## Chapter 5: Unlawful Eviction

### § 26-521 Unlawful eviction.

a. It shall be unlawful for any person to evict or attempt to evict an occupant of a dwelling unit who has lawfully occupied the dwelling unit for thirty consecutive days or longer or who has entered into a lease with respect to such dwelling unit or has made a request for a lease for such dwelling unit pursuant to the hotel stabilization provisions of the rent stabilization law except to the extent permitted by law pursuant to a warrant of eviction or other order of a court of competent jurisdiction or a governmental vacate order by:

(1) using or threatening the use of force to induce the occupant to vacate the dwelling unit; or

(2) engaging in a course of conduct which interferes with or is intended to interfere with or disturb the comfort, repose, peace or quiet of such occupant in the use or occupancy of the dwelling unit, to induce the occupant to vacate the dwelling unit including, but not limited to, the interruption or discontinuance of essential services; or

(3) engaging or threatening to engage in any other conduct which prevents or is intended to prevent such occupant from the lawful occupancy of such dwelling unit or to induce the occupant to vacate the dwelling unit including, but not limited to, removing the occupant's possessions 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.

b. It shall be unlawful for an owner of a dwelling unit to fail to take all reasonable and necessary action to restore to occupancy an occupant of a dwelling unit who either vacates, has been removed from or is otherwise prevented from occupying a dwelling unit as the result of any of the acts or omissions prescribed in subdivision a of this section and to provide to such occupant a dwelling unit within such dwelling suitable for occupancy, after being requested to do so by such occupant or the representative of such occupant, if such owner either committed such unlawful acts or omissions or knew or had reason to know of such unlawful acts or omissions, or if such acts or omissions occurred within seven days prior to such request.

### § 26-522 Definitions.

a. For the purpose of this chapter the following terms shall have the following meanings:

(1) "Dwelling unit" means a dwelling unit as such term is defined in subdivision thirteen of section 27-2004 of the housing maintenance code.

(2) "Owner" means an owner as defined in section 27-2004 of the housing maintenance code.

b. For the purposes of this chapter a "person" shall not include a government employee acting within the scope of employment.

### § 26-523 Criminal and civil penalties.

a. Any person who intentionally violates or assists in the violation of any of the provisions of this chapter shall be guilty of a class A misdemeanor. Each such violation shall be a separate and distinct offense.

b. Such person shall also be subject to a civil penalty of not less than one thousand nor more than ten thousand dollars for each violation. Each such violation shall be a separate and distinct offense. In the case of a failure to take all reasonable and necessary action to restore an occupant pursuant to subdivision b of section 26-521 of this chapter, such person shall be subject to an additional civil penalty of not more than one hundred dollars per day from the date on which restoration to occupancy is requested until the date on which restoration occurs, provided, however, that such period shall not exceed six months.

### § 26-524 Enforcement actions or proceedings.

The civil penalties prescribed by this chapter shall be recovered by an action or proceeding in any court of competent jurisdiction. All such actions or proceedings shall be brought in the name of the city by the corporation counsel. In addition, the corporation counsel may institute any other action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of the provisions of this chapter, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any provision of this chapter, mandating compliance with the provisions of this chapter or for such other relief as may be appropriate. In any such action or proceeding the city may apply to any court of competent jurisdiction, or to a judge or justice thereof, for a temporary

restraining order or preliminary injunction enjoining and restraining all persons from violating any provision of this chapter, mandating compliance with the provisions of this chapter, or for such other relief as may be appropriate, until the hearing and determination of such action or proceeding and the entry of final judgment or order therein. The court, or judge or justice thereof, to whom such application is made, is hereby authorized forthwith to make any or all of the orders above specified, as may be required in such application, with or without notice, and to make such other or further orders or directions as may be necessary to render the same effectual. No undertaking shall be required as a condition to the granting or issuing of such order, or by reason thereof.

### **§ 26-525 Lien.**

Every civil penalty imposed by judgment upon an owner pursuant to this chapter shall be a lien upon the dwelling with respect to which such civil penalty is imposed from the time of the filing of a notice of pendency in the office of the clerk of the county in which such dwelling is situated.

### **§ 26-526 Notice of pendency.**

a. In any action or proceeding instituted under this chapter, the corporation counsel may file in the county clerk's office of the county where the dwelling affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Such notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards, before final judgment or order. The corporation counsel shall designate in writing 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 the notice of pendency is filed shall record and index such notice against the names and blocks designated.

b. Any such notice may be vacated upon the order of a judge of the court in which such action or proceeding was instituted or is pending, or upon the consent in writing of the corporation counsel. The clerk of the county where such notice is filed shall cancel such notice upon receipt of such consent or of a certified copy of such order.

### **§ 26-527 Liability for costs.**

Neither the city nor any officer or employee thereof shall be liable for costs in any action or proceeding brought pursuant to this chapter.

### **§ 26-528 Monies recovered.**

All monies recovered under this chapter shall be paid into the general fund of the city.

### **§ 26-529 Remedies and penalties.**

The remedies and penalties provided for herein shall be in addition to any other remedies and penalties provided under other provisions of law.