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**THE COUNCIL**  
**COMMITTEE REPORT OF THE LAND USE DIVISION**  
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**SUBCOMMITTEE ON ZONING AND FRANCHISES**  
**Hon. Francisco P. Moya, Chair**

**November 9, 2021**

**Proposed Preconsidered Int. No. 2443:** By Council Member Chin

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to increasing penalties related to using joint living work quarters for artists contrary to zoning

**Administrative Code:** Amends § 28-201.2.2 and §28-202.1

## **I. INTRODUCTION**

On November 9, 2021, the Subcommittee on Zoning and Franchises will hold a hearing on Proposed Preconsidered Introduction No. , a Local Law to amend the administrative code of the city of New York, in relation to increasing penalties related to using joint living work quarters for artists contrary to zoning. This bill is related to application Nos. C 210422 ZMM and N 210423 ZRM for the SoHo/NoHo Neighborhood Plan. Representatives of the Department of City Planning (DCP), the Department of Buildings (DOB), and various advocacy groups have been invited to attend.

## **II. BACKGROUND: PROPOSED PRECONSIDERED INTRODUCTION NO.**

Joint living work quarters for artists (JLWQA) are spaces in non-residential buildings used both as living quarters and work space by artists and their households.<sup>1</sup> During the 1960's and 1970's with the decline in the industrial economy in the SoHo/NoHo area, artist lofts gained prominence and legal status.<sup>2</sup> First, in SoHo in 1971 when SoHo was rezoned from M1-5 to M1-5A/B, establishing JLWQA as a Use Group 17D manufacturing use, and then in 1976 when NoHo was rezoned from M1-5 to M1-5B.<sup>34</sup> In these zoning districts, located only in SoHo and NoHo, artists may occupy JLWQA's as an industrial use pursuant to the requirements of the Zoning Resolution (ZR) section 42-14, which incorporates the definitions of a JLWQA and "artist" found in section 12-10 of the ZR.<sup>5</sup> One such requirement, is a requirement that the artist occupant be certified as an artist by the New York City Department of Cultural Affairs

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<sup>1</sup> New York City Department of City Planning, *Zoning Handbook*, (2018).

<sup>2</sup> *Envision SoHo/NoHo: A Summary of Findings and Recommendations*, (2019).

<sup>3</sup> *Id* at 24

<sup>4</sup> As an enabling act, New York State's multiple dwelling law was amended to establish Article 7B ("Artists Loft Law")

<sup>5</sup> See ZR sections 42-14, and 12-10 definitions of "joint living work quarters for artists" and "artist" available at: <https://zr.planning.nyc.gov/>

(DCLA).”<sup>6</sup> DCLA has promulgated rules and prescribed guidelines for an artist to obtain certification<sup>7</sup> that are consistent with the definition of “artist” in section 276 of the Multiple Dwelling Law.<sup>8</sup>

While the number of artists seeking DCLA certification has declined sharply in recent years,<sup>9</sup> the desirability of the SoHo/NoHo area has made the market for JLWQA units so strong that these units have been sold to non-artists contrary to zoning and to the detriment of SoHo/NoHo’s legacy as an arts enclave. According to data gathered by the Department of City Planning (DCP) there are over 1636 units designated as JLWQA’s in their Certificate of Occupancy (C of O).<sup>10</sup> Currently, many of the units intended for occupancy by certified artists are not so occupied, in violation of the requirements in the ZR.<sup>11</sup> Such violations are due to several factors, including an occupant’s inability to meet the artist certification requirements and lack of enforcement.

The current amount of the penalty for occupying a JLWQA contrary to zoning requirements is \$1,250.<sup>12</sup> This bill would significantly increase current penalties and act as a deterrent for these units to be occupied by non-artists in the future. A first violation would be subject to a penalty of not less than \$15,000, with subsequent violations subject to a penalty of

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<sup>6</sup> See ZR section 12-10

<sup>7</sup> See N.Y. Multiple Dwelling Law §§ 275-276 and 58 RCNY, Chapter 1.

<sup>8</sup> “As used in this article, the word “artist” means a person who is regularly engaged in the fine arts, such as painting and sculpture or in the performing or creative arts, including choreography and filmmaking, or in the composition of music on a professional basis, and is so certified by the city department of cultural affairs and/or state council on the arts.” N.Y. Mult. Dwell. Law § 276 (McKinney)

<sup>9</sup> “SoHo/NoHo Neighborhood Plan, As Approved by the City Planning Commission Presentation” (October 20, 2021)

<sup>10</sup> *Id* at 42.

<sup>11</sup> *Supra* Note 8 at 42.

<sup>12</sup> See New York City Department of Buildings Penalty Schedule at 1 RCNY §102-01.

not less than \$25,000. In addition, monthly penalties of \$1,000 for each month the violation is not corrected may be imposed.

### **III. ANALYSIS OF PROPOSED PRECONSIDERED INTRODUCTION NO.**

Bill section one would amend section 28-201.2.2 of the Administrative Code, by adding a new item 8 that would classify as a major violation a violation of a requirement, established pursuant to the zoning resolution, related to a use contrary to the definition of joint living work quarters for artists, as defined by section 12-10 of the zoning resolution.

Bill section 2 would amend section 28-202.1 of the Administrative Code by adding a new exception 12 providing that a violation of a requirement, established pursuant to the zoning resolution, related to a use contrary to the definition of joint living work quarters for artists, as defined by section 12-10 of the zoning resolution, shall be subject to a civil penalty of not less than \$15,000 for the first offense and not less than \$25,000 for each subsequent offense. In addition to such civil penalties, a separate monthly penalty may be imposed of \$1,000 for each month that the violation is not corrected.

Section 3 of the bill would provide that this local law takes effect immediately.

Proposed Preconsidered Int. No.

By Council Member Chin

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to increasing penalties related to using joint living work quarters for artists contrary to zoning.

Be it enacted by the Council as follows:

Section 1. Section 28-201.2.2 of the administrative code is amended by adding a new item 8, to read as follows:

8. A violation of a requirement, established pursuant to the zoning resolution, related to a use contrary to the definition of joint living work quarters for artists, as defined by section 12-10 of the zoning resolution.

§ 2. Section 28-202.1 of the administrative code of the city of New York is amended by adding a new exception 12, to read as follows:

12. A violation of a requirement, established pursuant to the zoning resolution, related to a use contrary to the definition of joint living work quarters for artists, as defined by section 12-10 of the zoning resolution, shall be subject to a civil penalty of not less than \$15,000 for the first offense and not less than \$25,000 for each subsequent offense. In addition to such civil penalties, a separate monthly penalty may be imposed of \$1,000 for each month that the violation is not corrected.

§ 3. This local law takes effect immediately.