

Proposed Int. No. 1433-A

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

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

Be it enacted by the Council as follows:

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

3   **§ 28-103.21 Incident lists.** The commissioner shall, by January 2018 and monthly thereafter,  
4 post on the department's website, in a machine-readable format, a list of every incident, reported  
5 to the department in accordance with section 28-103.21.1, that occurred on every construction  
6 site [within the city of New York that resulted in an injury and/or a fatality, either or both of  
7 which were reported to the department or of which the department otherwise became aware.  
8 Such list shall be updated monthly.] where construction work subject to permitting by the  
9 commissioner resulted in (i) a fatality to any individual, including a member of the general  
10 public or a construction worker, or (ii) an injury to any individual, including a member of the  
11 general public or a construction worker, that requires transport by emergency medical services or  
12 requires immediate emergency care at a hospital or offsite medical clinic, regardless of whether  
13 such incident involved a violation of this code or any other law or rule. Such list shall [identify  
14 the] identify, at a minimum, the following information for each incident that the department is  
15 required to report on pursuant to this section:

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17           1. The owner [and the general contractor] of the site where the incident [occurred, the]  
18           occurred;
- 19  
20           2. If the incident involved a construction worker, the name of the general contractor or the  
21           subcontractor who employed such worker at the time of the incident;
- 22  
23           3. A detailed description of the incident, including the nature of the work being performed  
24           at the time of the [incident, violations] incident;
- 25  
26           4. Violations issued by the department as a result of the incident and to whom such  
27           violations were [issued, and the] issued;
- 28  
29           5. The number of persons injured and/or [killed. Such list shall also set forth the total  
30           number of injuries and fatalities reported to the department or of which the department  
31           otherwise became aware that occurred on construction sites within each borough and  
32           within the entire city for each of the previous five calendar years.] killed in the incident,  
33           and whether such persons were members of the public, construction workers or other

1 persons;

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3 6. If the incident involved an injury, a description of the type of injury;

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5 7. Whether the incident involved a fatality;

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7 8. The date and time of the incident;

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9 9. The address where the incident occurred;

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11 10. The total square footage of the site where the incident occurred;

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13 11. The number of floors and height of the building involved where the incident occurred or,  
14 in the case of a new building, the proposed number of floors and proposed height;

15  
16 12. A list of active permits issued by the department associated with the construction site  
17 where an incident occurred, disaggregated by type;

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19 13. If the incident involved a construction worker, the length of time the injured or deceased  
20 worker had been employed by their employer at the time of the incident;

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22 14. If the incident involved a construction worker, the number of hours the injured or  
23 deceased worker had been working when the incident occurred;

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25 15. If the incident involved a construction worker, whether or not the injured or deceased  
26 worker was a union member; and

27  
28 16. Whether or not the construction site where the incident occurred was a union site.

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30 **§ 28-103.21.1 Reporting.** Where construction work subject to permitting by the commissioner  
31 that results in a fatality or injury to any individual, including a member of the general public or a  
32 construction worker, occurs on a construction site within the city, the owner or person otherwise  
33 in control of the site at which such incident occurred, or, if the incident involved a construction  
34 worker, the general contractor or subcontractor that employed such worker, shall report to the  
35 department, within three business days after the occurrence of such incident, the information  
36 required by section 28-103.21.

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

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

42 [13.1. The minimum civil penalty that shall be imposed for a violation of section 28-408.1 or  
43 section 28-410.1 of this code and the minimum fine that shall be imposed for a violation of

1 such sections shall be two thousand five hundred dollars for the first violation and five  
2 thousand dollars for each subsequent violation.]

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

5 **§ 28-202.1 Civil penalties.** Except as otherwise specified in this code or other law, violations of  
6 this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the  
7 department shall be punishable by civil penalties within the ranges set forth below:  
8

- 9 1. For immediately hazardous violations, a civil penalty of not less than one thousand  
10 dollars nor more than [twenty-five thousand dollars] \$25,000 may be imposed for each  
11 violation. In addition to such civil penalty, a separate additional penalty may be imposed  
12 of not more than [one thousand dollars] \$1,000 for each day that the violation is not  
13 corrected. The commissioner may by rule establish such specified daily penalties.  
14
- 15 2. For major violations, a civil penalty of not more than [ten thousand dollars] \$10,000 may  
16 be imposed for each violation. In addition to such civil penalty, a separate additional  
17 penalty may be imposed of not more than [two hundred fifty dollars] \$250 for each  
18 month that the violation is not corrected. The commissioner may by rule establish such  
19 specified monthly penalties.  
20
- 21 3. For lesser violations, a civil penalty of not more than [five hundred dollars] \$500 may be  
22 imposed for each violation.  
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24 **Exceptions:**

- 25  
26 1. The owner, lessee, occupant, manager or operator of a building affected by a natural  
27 or man-made disaster, as determined by the commissioner, shall not be subject to a  
28 civil penalty for a violation involving such building if (i) notice of such violation is  
29 issued by the department during the 90-day period immediately after such disaster or,  
30 in the case of a major natural or man-made disaster as determined by the  
31 commissioner, during the six-month period immediately after such disaster, and (ii)  
32 such violation is corrected on or before 40 days after such disaster period or such  
33 greater amount of time as determined by the commissioner for such violation. The  
34 notice of such violation shall state that such violation is subject to this exception and  
35 shall set forth the procedure and time period for correcting such violation without  
36 incurring a civil penalty. This exception shall not apply to immediately hazardous  
37 violations, violations charged as aggravated violations or violations without  
38 connection to such disaster, as determined by the department.  
39
- 40 2. The owner, lessee, occupant, manager or operator of a building where a violation  
41 occurs shall not be subject to a civil penalty for such violation if (i) such violation  
42 was connected to a natural or man-made disaster, as determined by the commissioner,  
43 and (ii) such building is undergoing, or scheduled or under evaluation for, work or

1 acquisition through a city-operated disaster recovery program responding to such  
2 disaster.

3  
4 3. The owner, lessee, occupant, manager or operator of a building shall not be subject to  
5 a civil penalty for a violation resulting from work done by a city employee, or by a  
6 third party under contract with the city, in response to a natural or man-made disaster,  
7 provided that such violation is corrected on or before 60 days after the issuance of  
8 such violation, or such greater amount of time as determined by the commissioner for  
9 such violation. If such owner, lessee, occupant, manager or operator of a building can  
10 demonstrate to the satisfaction of the department that a city employee or third party  
11 under contract with the city has committed to correcting such violation then such  
12 violation shall be rescinded, without penalty. The notice of such violation shall state  
13 that such violation is subject to this exception and shall set forth the procedure and  
14 time period for correcting such violation without incurring a civil penalty. This  
15 exception shall not apply to immediately hazardous violations or violations charged  
16 as aggravated violations.

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18 4. The minimum civil penalty for a violation of section 28-408.1 or section 28-410.1 of  
19 this code shall be \$2,500 for a first violation and \$5,000 for a second violation, in  
20 addition to any separate daily penalty imposed pursuant to item 1 of this section.

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22 5. The minimum civil penalty for a violation of section 28-103.21.1 of this code shall be  
23 \$2,500, in addition to any separate daily or monthly penalty imposed pursuant to item  
24 1 or 2 of this section.

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26 § 4. This local law shall take effect immediately.