Zoning and Franchises Subcommittee Staff

Angelina Martinez-Rubio, Deputy General Counsel

 Arthur Huh, Subcommittee Counsel



**THE COUNCIL**

COMMITTEE REPORT OF THE Land Use Division

*Raju Mann, Land Use Director*

**SUBCOMMITTEE ON ZONING AND FRANCHISES**

**Hon. Francisco P. Moya, Chair**

**December 9, 2021**

**Proposed Int. No. 2443-A:** 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: Adds a new § 7-629

Amends § 28-201.2.2 and §28-202.1

**I. Introduction**

On December 9, 2021, the Subcommittee on Zoning and Franchises and the Committee will vote on Proposed Int. No. 2443-A, 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. A public hearing at the Subcommittee of Zoning and Franchises was held on Preconsidered Int. No., on November 9, 2021.

**II. Background**

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.[[1]](#footnote-2) 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.[[2]](#footnote-3) 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. [[3]](#footnote-4)[[4]](#footnote-5) 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.[[5]](#footnote-6) One such requirement, is a requirement that the artist occupant be certified as an artist by the New York City Department of Cultural Affairs (DCLA).”[[6]](#footnote-7) DCLA has promulgated rules and prescribed guidelines for an artist to obtain certification[[7]](#footnote-8) that are consistent with the definition of “artist” in section 276 of the Multiple Dwelling Law.[[8]](#footnote-9)

While the number of artists seeking DCLA certification has declined sharply in recent years,[[9]](#footnote-10) 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).[[10]](#footnote-11) Currently, many of the units intended for occupancy by certified artists are not so occupied, in violation of the requirements in the ZR. [[11]](#footnote-12) 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.[[12]](#footnote-13) This bill will significantly increase current penalties and act as a deterrent for these units to be occupied by non-artists, or those not meeting the requirements in the zoning resolution, in the future.

**III. Summary of Legislation**

The bill was introduced as Preconsidered Introduction No. 2443 at a stated meeting on November 10, 2021. The bill would have classified uses contrary to the 12-10 zoning resolution definition of joint living work quarters for artists as major violations under the Administrative Code and increased penalties associated with these violations. A first violation would have been subject to a penalty of not less than $15,000, with subsequent violations subject to a penalty of not less than $25,000. In addition, monthly penalties of $1,000 for each month the violation was not corrected may have been imposed.

The bill was subsequently amended as Proposed Int. No. 2443-A. While the original proposed civil penalty increases remain the same, except for specifying that subsequent offenses are capped at $25,000, Proposed Int. No. 2443-A imposes additional requirements on new purchasers of JLWQA units. Specifically, that within 90 days of acquiring a JLWQA, the new owner of said JLWQA must file with the City Register a statement that the property is a JLWQA subject to the JLWQA requirements in the zoning resolution. In addition, Proposed Int. 2443-A, authorizes the City to record a property’s JLWQA status at the City Register. Finally, Proposed Int. No. 2443-A specifies that the new penalties and requirements become effective, not immediately, but rather 180 days after it becomes a law.

**IV. Analysis of Legislation**

Bill section one, adds to Preconsidered Int. No., a new section 7-629 to the Administrative Code related to joint living work quarters for artists. Subdivision a of new section 7-629 establishes definitions for “city register” and “joint living-work quarters for artists.”

Subdivision b of new section 7-629 provides that within 90 days of acquiring a joint living work quarter for artists, an owner must file a statement with the City Register that the property is a joint living work quarter for artists subject to the applicable requirements in the zoning resolution. This subdivision also provides that such requirement shall not apply to owners of joint living work quarters for artists who owned the property prior to the effective date of this local law.

Last, Subdivision c of new section 7-629 provides that an office or agency designated by the mayor may record with the City Register a property’s status as a joint living work quarter for artists in the City of New York, including the borough, block and lot number as set forth in the tax map.

Bill section two amends section 28-201.2.2 of the Administrative Code, by adding a new item 8 that classifies 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 3 amends section 28-202.1 of the Administrative Code by adding a new exception 13 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 $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 4 of the bill provides that this local law takes effect 180 days after it becomes law.

Proposed Int. No. 2443-A

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

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Be it enacted by the Council as follows:

Section 1. Chapter 6 of title 7 of the administrative code of the city of New York is amended by adding a new section 7-629 to read as follows:

§ 7-629 Joint living-work quarters for artists. a. Definition. For the purposes of this section, the following terms have the following meanings:

City register. The term “city register” means the office of the register of the city of New York.

Joint living-work quarters for artists. The term “joint living-work quarters for artists” has the same meaning as such term is defined in section 12-10 of the zoning resolution.

b. Recording requirement for owners of joint living-work quarters for artists. Within 90 days of acquiring ownership of a property that is a joint living-work quarter for artists, the owner of such property must record in the city register, or in the case of property within the county of Richmond, in the office of the clerk of such county, a statement that such property is a joint living-work quarter for artists, and that such property is therefore subject to regulations governing joint living-work quarters for artists pursuant to the zoning resolution. Such requirement shall not apply to an owner of such property who acquired ownership of such property prior to the effective date of the local law that added this section.

c. Notice recorded by city agencies. In addition to any statement required to be recorded by the owner of a property that is a joint living-work quarter for artists pursuant to subdivision b of this section, for any property in the city of New York that is a joint living-work quarter for artists, an office or agency designated by the mayor may, where such office or agency determines it to be in the public interest, timely record in the city register, or in the case of property within the county of Richmond, in the office of the clerk of such county, notice that such property is a joint living-work quarter for artists, and that such property is therefore subject to regulations governing joint living-work quarters for artists pursuant to the zoning resolution. Each such notice shall include the borough, block and lot number of such property as set forth on the tax map.

§ 2. Section 28-201.2.2 of the administrative code of the city of New York 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.

§ 3. Section 28-202.1 of the administrative code of the city of New York is amended by adding a new exception 13 to read as follows:

13. 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 $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.

§ 4. This local law takes effect 180 days after it becomes law.

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1. New York City Department of City Planning, *Zoning Handbook,* (2018). [↑](#footnote-ref-2)
2. *Envision SoHo/NoHo: A Summary of Findings and Recommendations,* (2019). [↑](#footnote-ref-3)
3. *Id* at *24* [↑](#footnote-ref-4)
4. As an enabling act, New York State’s multiple dwelling law was amended to establish Article 7B (“Artists Loft Law)” [↑](#footnote-ref-5)
5. *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/*](https://zr.planning.nyc.gov/) [↑](#footnote-ref-6)
6. *See* ZR section 12-10 [↑](#footnote-ref-7)
7. *See* N.Y. Multiple Dwelling Law §§ 275-276 and 58 RCNY, Chapter 1. [↑](#footnote-ref-8)
8. “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) [↑](#footnote-ref-9)
9. “SoHo/NoHo Neighborhood Plan, As Approved by the City Planning Commission Presentation” (October 20, 2021) [↑](#footnote-ref-10)
10. *Id* at 42. [↑](#footnote-ref-11)
11. *Supra* Note 8 at 42. [↑](#footnote-ref-12)
12. *See* New York City Department of Buildings Penalty Schedule at 1 RCNY §102-01. [↑](#footnote-ref-13)