

City of New Haven

Signature Copy

Ordinance: OR-2021-0032

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File Number: OR-2021-0032

ORDINANCE AMENDMENT OF THE NEW HAVEN CODE OF ORDINANCES, DELETING SECTION 12½-43.2(c)(4) THROUGH (c)(4)(iii)(2) AND ADDING SECTION 9-52 PROPERTY MAINTENANCE; ELEVATORS SPECIFYING THAT LIVABLE CITY INITIATIVE IS RESPONSIBLE FOR ENFORCING SECTION 9-52 OF THE ORDINANCE AND ENSURING COMPLIANCE WITH THE SAME.

BE IT HEREBY ORDAINED BY THE NEW HAVEN BOARD OF ALDERS THAT the New Haven Code Ordinances be amended as follows: Section 12½-43.2 subsection (c)(4) through (c)(4)(iii)(2) is deleted and a new section 9-52 Property Maintenance; Elevators is added as outlined in Schedule A below and incorporated herein.

SCHEDULE A

Sec. 12½-43.2. Disability.

- (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of the disability of:
- (1) That buyer or renter;
 - (2) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - (3) Any person associated with that buyer or renter.
- (b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provisions of services or facilities in connection with the dwelling because of the disability of:
- (1) That person;
 - (2) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - (3) Any person associated with that person.
- (c) For purposes of this section only, discrimination includes:
- (1) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises;
 - (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or
 - (3) In connection with the design and construction of covered multifamily dwelling for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:
 - a. The dwellings have at least one (1) building entrance on an accessible route,

unless it is impractical to do so because of the terrain or unusual characteristics of the site.

- b. With respect to dwellings with a building entrance on an accessible route:
 - (i) The public use and common use portion of the dwellings are readily accessible to and usable by persons with disabilities;
 - (ii) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and
 - (iii) All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling, light switches, electrical outlets, thermostats and other environmental controls in accessible locations, reinforcements in bathroom walls to allow later installation of grab bars, and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. (Compliance with the appropriate requirements of the American National Standard for Accessible and Usable Buildings & Facilities ["ANSI A 117.1"] satisfies the requirements of this subsection.
- (4) As used in this subsection, the term "covered multifamily dwellings" means:
 - (1) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and
 - (2) Ground-floor units in other buildings consisting of four (4) or more units.
- (e) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. of 1-6-92; Ord. of 6-1-92; Ord. of 3-12-01; Ord. No. 2016-0025 , 6-6-16; Ord. No. 1944 , 9-19-22)

Note(s)-See the editor's note to § 12½-43.1.

Sec. 9-52. Property Maintenance; Elevators

- (a) Definitions. For the purpose of this section only, the following words and terms shall have the following meanings:
 - (1) City means the City of New Haven.
 - (2) Code Enforcement Officer means City of New Haven Housing Code Enforcement Officials, Health Department Enforcement Officials, Building Official, Livable City Initiative Officials ("LCI"), City Engineer, Zoning Enforcement Officer and Fire Marshal of the City of New Haven or his/her designee, which includes Housing Code Inspector(s) unless otherwise specified, or other City official(s) otherwise authorized to administer the licensing and inspection of residential rental property.
 - (3) Director of the Livable City Initiative means the director of the City's agency known as the Livable City Initiative (LCI) or his/her designee unless otherwise specified.
 - (4) Elevator means a hoisting and lowering mechanism equipped with a car or platform which moves in guides or rails in a substantially vertical direction, other than an inclined stairway chairlift and a vertical wheelchair or incline lift, including sidewalk elevators used for the carrying of persons or freight.

- (5) Exempt Property means any City-owned property, and any building or structure undergoing remodeling, restoration, repair, or renovation under a current building permit, provided that the violations will be corrected thereby, and that the Building Official determines that the work is proceeding in a reasonably expeditious timeframe. City-owned property is only exempt from Section (f) Penalty for violation below.
 - (6) Hearing Officer(s) means the Hearing Officer(s) designated by the Mayor to hear and adjudicate appeals from citations for violation(s) of this ordinance.
 - (7) Housing Code Inspector means a City employee who conducts rental housing property inspections for purposes of determining whether such property complies with minimum housing code standards as outlined in the City's applicable regulations. The Housing Code Inspector works under the direction of the code enforcement officer.
 - (8) Livable City Initiative means the City's Livable City Initiative or any successor agency to the Livable City Initiative, as established in this Code.
 - (9) Mayor means the Mayor of the City of New Haven.
 - (10) Owner means any person, who either alone or jointly or severally with others holds legal title to any residential elevator building, with or without accompanying actual possession.
 - (11) Operator means any person, who either alone or jointly or severally with others has charge, care, or control of any residential elevator building, as Owner or agent of the Owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the Owner. Any such person thus representing the actual Owner.
 - (12) Person(s) means and includes any individual, firm, corporation, association, or partnership.
 - (13) Residential Elevator Building means any building located in the City, which is wholly or partly used as a residential building with at least one (1) elevator.
- (b) Applicability: Every provision of this title shall apply to residential buildings with at least one (1) elevator as its only accessible means of ingress and egress for persons with disabilities to any floor above or below the ground-floor, including garages.
- (c) Violations: With respect to Residential Elevator Buildings with at least one (1) elevator as its only accessible means of ingress and egress for persons with disabilities to any floor above or below the ground-floor, including garages, any one of the following constitutes a violation of this section:
- (1) A failure to provide twenty-four (24) hours advance written notice of scheduled maintenance on the elevators or failure to conduct scheduled maintenance in accordance with industry standards and manufacturer's recommended maintenance, or
 - (2) Improper or inadequate maintenance or repairs resulting in inoperable or out-of-service elevator(s), or
 - (3) A failure to install a Knox box outside each Residential Elevator Building where elevators are located approved by the New Haven Fire Department, or
 - (4) Failure to repair elevators within forty-eight (48) hours of the elevator being out of service. For purposes of this subsection, an elevator that is the only means of

access for persons with disabilities to a floor above or below a ground floor shall be deemed in violation of this subsection if it is out of service for more than forty-eight (48) consecutive hours or more than two times in any consecutive thirty (30) day period unless:

- (i) The Owner or Operator demonstrates that the delay in repair is due to circumstances beyond Owner(s)' control and has a valid elevator service contract and a twenty-four-hour service line; and
 - (ii) The Owner demonstrates that Owner has offered to pay for any loss of earned income, equivalent, alternative housing, and moving costs for all tenants with disabilities and their families residing in the Residential Elevator Building until the repair(s) is complete, or
- (5) Failure to display signage in elevator as required by Section (d) below, or
 - (6) Failure to meet noticing requirements as required by Section (e) below.
- (d) Every elevator shall be posted with signage in English and Spanish with instructions regarding where to call if the elevator becomes inoperable as follows:
- (1) Such signage shall not be less than 8½" x 11" with a minimum of 24-point San Serif-type font and shall be posted inside and outside each elevator as close as possible to the call buttons but not higher than 60" from the floor.
 - (2) Language on the sign shall include: "If this elevator is not working and it is an emergency, dial 911. If it is not an emergency and you do not have access to another working elevator for at least forty-eight (48) consecutive hours, call Livable City Initiative at (203) 946-7090.
Si este elevador no funciona y es una emergencia, marque el 911. Si no es una emergencia y no ha tenido acceso a otro elevador en funcionamiento durante al menos cuarenta y ocho (48) horas consecutivas, llame a Livable City Initiative al (203) 946-7090."
- (e) Any Owner or Operator of a Residential Elevator Building shall notify all current tenants in writing of their rights under this section within thirty (30) days of the passage of this ordinance, and at the time they sign a lease and annually thereafter.
- (f) Penalty for violation. Violation of this section shall result in a fine up to two hundred fifty dollars (\$250.00) or the maximum amount authorized by state statutes for each day that said violation continues after receipt of written citation of said violation.
- (g) Enforcement. The Director of the Livable City Initiative and/or any other official designated by the Mayor shall be charged with supervising the enforcement of this ordinance. It shall be the duty of the code enforcement officer(s) to enforce the provisions of this section and any rules or regulations promulgated hereunder. The Code Enforcement Officer shall undertake investigations of complaints for the purpose of documenting violations of this section. The Code Enforcement Officer may order any Owner or Operator who violates this ordinance to correct such violation and shall be hereby authorized and empowered to issue citations for violations of this section. The Code Enforcement Officer shall also be authorized and empowered to effectuate the removal or abatement of the property maintenance violation under the procedures set forth in this section and may cause a lien to be placed on the property in the amount of said cost. The Code Enforcement Officer shall also be authorized and empowered to relocate tenants at the cost of the Owner, when necessary, as determined by Section

(c)(4) above.

(h) Notice of violation. The City shall serve a written citation to the Owner of a Residential Elevator Building of the violation(s) of this section by personal in-hand service or delivery or by mailing such citation to the Owner's last known address by certified mail, return receipt requested. Such notice shall direct that the correction of the violation "must be made a high priority." If within two (2) calendar days after receipt of the written citation, the Owner fails to correct the violation, the Code Enforcement Officer shall issue a citation in accordance with this ordinance. Such citation shall further inform the Owner that failure to correct the violation will result in fines being imposed by the hearing officer, which can be enforceable subsequently as a lien on the Owner's property and may be also converted into court judgments, or the City may cause the correction of the violation and relocation of the tenants at the expense of the Owner.

(i) Citation/Penalties. If the Owner fails to correct or abate the violation within two (2) calendar days after receiving a citation of the violation, as provided in subsection (h) above, the City shall serve a written civil citation on the Owner of the Residential Elevator Building. However, if the Owner, within that two (2) day period, demonstrates to the Code Enforcement Officer that the violation has occurred as a result of a casualty loss for which insurance is available, but the Owner needs additional time to correct the violation, then the code enforcement officer, in the officer's discretion, may issue a written stay of the enforcement of the citation and the enforcement of any fines imposed against the Owner. Said stay shall be expressly conditioned upon correction of the violation on the Residential Elevator Building within a specified period of time not to exceed thirty (30) days, unless the Owner requests in writing to the Director of Livable City Initiative within the time specified by the Code Enforcement Officer that the stay should be extended for an additional period of time, in which case, the Director of Livable City Initiative may extend such stay in writing for an additional time not to exceed sixty (60) days. If the conditions of the stay have not been met within the specified time, or the time period as it may be extended, as provided above, the stay will be terminated, and all fines assessed against the Owner shall be enforced against the Owner in accordance with this section. This section does not absolve the Owner or Operator of their obligations to their tenants with disabilities under (c)(4)(ii) above.

The citation shall be served upon the Owner by personal in-hand service or delivery or by mailing such citation to the Owner's last known address by certified mail, return receipt requested. The civil citation shall provide the Owner with the following information:

- (1) The allegations made against the Owner and the amount of the proposed fines per day of continued violation of the ordinance;
- (2) That Owner may contest their liability before the City's duly appointed Hearing Officer by delivering written notice in person or by mail to said Hearing Officer c/o the Director Livable City Initiative, City Hall, 165 Church Street, 3rd floor, New Haven, CT 06510 within ten (10) calendar days from the date of receipt of the citation(s);
- (3) That if Owner does not demand such a hearing within such ten (10) calendar days in accordance with this ordinance, the Owner shall be deemed to have admitted

liability, and the Hearing Officer may assess a fine without further notice;

- (4) That the City may file a lien against said Residential Elevator Building in accordance with Connecticut General Statutes, Section 7-148f as amended from time to time, for the cost of any property maintenance to abate pursuant to Section (g) above, or the amount of any unpaid fine for property maintenance violation imposed by the City in accordance with this section;
 - (5) That said lien may be enforced in the same manner as a property tax lien. Pursuant to Connecticut General Statutes Section 7-152c(f), as amended from time to time, any unpaid fine imposed pursuant to this citation hearing procedure shall constitute a lien upon the Residential Elevator Building against which the fine was imposed from the date of the fine. The lien shall be continued, recorded, released, and enforced as provided for by said statute. Such liens shall take precedence over all other liens and other encumbrances, except taxes, filed after July 1, 1997;
 - (6) That fines imposed may be converted to a court judgment for money damages with additional court cost imposed;
 - (7) That in the case of violations which pose a danger to the public health, welfare, and safety, the City may cause the conditions to be corrected, removed, or abated at the expense of the Owner including the relocation of the tenants, and that the amount of such costs for correction, removal, relocation of tenants, or abatement may also become a lien against the Owner's Residential Elevator Building.
- (j) Hearing officer. The Mayor shall appoint one or more Hearing Officer(s), who shall not be a City employee, to conduct the hearings authorized by this section. Such Hearing Officer shall serve without pay. The Mayor may remove any such hearing officer at any time for whatever reason the Mayor deems sufficient.
- (k) Appeal; hearing procedure for citations. If an Owner who is sent a civil citation pursuant to Section (i) above wishes to admit liability for any alleged violation, the Owner may, without requesting a hearing, pay the full amount of the fine(s) due, in person or by mail to the City by delivering it to the director of Livable City Initiative. Such payment shall be inadmissible in any proceeding, civil, or criminal, to establish the conduct of such person or other person making the payment. Any Owner who does not deliver or mail written demand for a hearing within ten (10) days of the date of receipt of the civil citation provided for in subsection (i) above, shall be deemed to have admitted liability, and the designated hearing officer shall certify such Owner's failure to respond to the code enforcement officer. Said Code Enforcement Officer shall thereupon enter and assess the fine(s) so provided herein and shall follow the procedures set forth in this ordinance for placing a lien on the Residential Elevator Building or obtaining a court judgment.
- Any Owner who requests a hearing shall be given written notice of the date, time, and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of the mailing of the notice, unless the Owner requesting the hearing agrees to an earlier date. The Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. The City shall present at the hearing the original citation of violation, a certified copy of such citation, the violator's copy or a certified copy of the violator's

copy issued by the code enforcement officer, and such original or certified copy shall be deemed to be a business record within the scope of Connecticut General Statutes, Section 52-180 and evidence of the facts contained therein. The Code Enforcement Officer may but is not required to appear at the hearing but shall be required to appear if the Owner specifically requests the Code Enforcement Officer's presence. An Owner, who wishes to contest liability, shall appear at the hearing and may present evidence on their behalf, or the Owner may request that the hearing be conducted by mail and may submit documents and copies of reports for the hearing officer's review. The hearing officer may grant a request for a hearing by mail or may determine at any time (including after a hearing by mail has been granted and undertaken) that a hearing in person is necessary to fairly adjudicate the matter, and that the Owner must appear in person at a hearing. If the Code Enforcement Officer is not able to attend the hearing and his/her presence has not been specifically requested by the Owner, a designated City official, other than the hearing officer or Code Enforcement Officer may present evidence on behalf of the City.

If the Owner fails to appear or fails to request a hearing by mail within the timeframe set forth herein, the hearing officer may enter a default upon finding of proper notice and liability under applicable law. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as the hearing officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce the decision at the end of the hearing. If the hearing officer determines that the owner is not liable, the hearing officer shall dismiss the matter and enter the determination in writing accordingly. If the hearing officer determines that the owner is liable for the violation(s), the hearing officer shall forthwith enter and assess the fines against such Owner and levy such fines as provided for herein. The hearing officer shall forward a notice of assessment to the Code Enforcement Officer for further action.

If such assessment is not paid on the date of its entry, the Code Enforcement Officer shall send by first class mail a Notice of Assessment to the Owner found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the Notice of Assessment with the Clerk of the Superior Court, Housing Session, 121 Elm Street, New Haven, CT 06510, together with the appropriate entry fee. The certified copy of the Notice of Assessment shall constitute a record of assessment. Within such twelve (12) month period, assessments against the same Owner may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment with appropriate court costs against such Owner in favor of the City. Notwithstanding any other provision of the General Statutes, the Notice of Assessment, when entered as a court judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such Owner.

An Owner against whom an assessment has been entered pursuant to this ordinance is entitled to judicial review by way of appeal. An appeal must be instituted within thirty (30) days of the mailing of the notice of such assessment by filing a petition to reopen the assessment, together with an entry fee with the Clerk of the Superior Court, Housing Session 121 Elm Street, New Haven, Connecticut 06510, which shall entitle


such person to a court hearing.

- (l) Waiver of fines. The Director of Livable City Initiative shall waive and release fines and liens if the City acquires the Residential Elevator Building. If the Residential Elevator Building is purchased by a private third-party buyer, the director may also waive and release part or all of the fines and liens at the time of the sale of the building, if in the director's opinion, the buyer has the financial ability and intention to immediately rehabilitate the building, or the director may defer the enforcement of the fines until all rehabilitation work is completed to the satisfaction of the director.
- (m) Fines collected. All funds collected by the City as fines through the civil citation process shall be deposited into an account to be administered by the Director of Livable City Initiative to be used for associated costs in enforcing and administering this ordinance (e.g., court fees, service of notices and citations, copying, postage, etc.). The account shall be a continuing or revolving account.

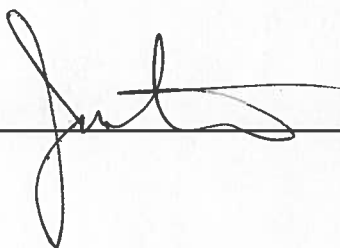
Sec. 9-53. Severability.

If any provision of this chapter or the application thereof shall be held invalid or unenforceable, the remainder of this chapter or the application of such terms and provisions to persons or circumstances other than to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision hereof shall be deemed valid and be enforced to the fullest extent permitted by law.

This Ordinance was Approved As Amended by the Board of Alders on 11/9/2023.

Attest, City Clerk  Date _____

Signed, City Clerk  Date _____

Signed, Mayor  Date 12/19/2023