

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016**

No. 136

Introduced by Council Members Treyger and Kallos (by request of the Mayor). Passed under a Message of Necessity from the Mayor.

A LOCAL LAW

In relation to special provisions for approval of demolition and construction work by city contractors under the “build it back” disaster recovery program

Be it enacted by the Council as follows:

Section 1. **Intent.** The city has implemented a disaster recovery program known as the build it back program for the recovery of residential property damaged or destroyed in the severe storm known as Sandy that occurred on October 29 and October 30 in 2012. The purpose of this local law is to expedite such recovery by implementing special procedures for the review and approval of demolition and construction work by city contractors under such program, consistent with public safety.

§ 2. **Definitions.** a. Unless otherwise indicated in subdivision b of this section, the terms used in this local law have the meanings ascribed to such terms in title 28 of the administrative code of the city of New York.

b. As used in this local law:

Build it back program. The term “build it back program” means the disaster recovery program funded by a community development block grant pursuant to the disaster relief appropriations act of 2013 and implemented by the city for recovery of residential property

damaged or destroyed in the severe storm known as Sandy that occurred on October 29 and October 30 in 2012.

Contracting agency. The term “contracting agency” means, with respect to work performed under the build it back program, and funded through (i) a contract held by the department of environmental protection, (ii) a contract held by the department of design and construction or (iii) a disbursement agreement held by the department of housing preservation and development, the agency holding such contract or disbursement agreement.

§ 3. **Applicability.** This local law applies only to one- to four-family dwellings enrolled in the build it back program, where work on such dwellings is funded through a contract or disbursement agreement held by a contracting agency.

§ 4. **Full demolition of detached one- to four-family dwellings.** Notwithstanding any inconsistent provision of sections 28-104.1 and 28-105.1 of the administrative code, the full demolition of a detached one- to four-family dwelling funded through a contract or disbursement agreement held by a contracting agency under the build it back program, which would otherwise require construction document approval and a permit, may be performed without such approval and permit, consistent with public safety, subject to the following conditions:

(1) A complete application for approval of construction documents and issuance of a permit, including all required submittal documents, shall be submitted to the department of buildings as soon as practicable after the completion of the demolition work. The department of buildings will not issue a new building permit for the site of the demolition until a complete application for the demolition is submitted.

(2) The work is performed under the supervision of a registered design professional designated by the contracting agency.

(3) For demolition by hand held devices, or where mechanical equipment is used only for foundation removal, such registered design professional, or a qualified individual with experience in demolition operations designated by the contracting agency under the supervision of such registered design professional is at the site to monitor the demolition from the commencement of the work until its completion. In all other instances where mechanical demolition equipment, other than hand held devices, is being used, such registered design professional shall be at the site to monitor the demolition from the commencement of the work until its completion.

(4) The registered design professional ensures that all required documentation and certifications relating to compliance with the provisions of title 28 of the administrative code and other applicable law have been obtained before commencement of demolition work, except where such documentation or certification is waived by the certifying authority. Such documentation and certifications shall be maintained at the site and available for inspection by the department of buildings.

(5) Where section 3306.5.1 of the New York city building code applies to such demolition, documents complying with such section shall be prepared and professionally certified by a registered design professional for compliance with the New York city construction codes, including the certification that any alternate means of protection of adjoining properties are equally safe as those required by such codes, before commencement of the demolition and shall be available at the site for inspection by the department of buildings.

§ 5. Option for buildings with outstanding pre-existing violations or pre-existing permits not signed off. Notwithstanding any inconsistent provision of sections 28-118.3.2 or 28-118.3.3 of the administrative code at the option of the owner and subject to the discretion of the mayor's office of housing recovery, the elevation of a one- to four-family dwelling funded through

a contract or disbursement agreement held by a contracting agency under the build it back program that would otherwise require the issuance of a certificate of occupancy by the department of buildings before re-occupancy of such dwelling, may be performed under a permit that will allow such dwelling to be occupied by the owner without a new certificate of occupancy or under its last issued certificate of occupancy, if any. Under this option, the owner may re-occupy the building after the issuance of a letter of completion for such work. Such letter of completion may be issued notwithstanding pre-existing violations or pre-existing permits that have not been signed off. The contracting agency must notify the owner before undertaking the elevation of a one- to four-family dwelling under this option, that although such dwelling may be occupied by the owner without the issuance of a new certificate of occupancy or under the last issued certificate of occupancy, if any, any inconsistency with such last issued certificate of occupancy or not obtaining a new certificate of occupancy may have an impact on the ability of such owner to obtain a mortgage or sell such dwelling and that all pre-existing violations and pre-existing permits that have not been signed off will remain in effect and must be remedied before the department of buildings will issue a new certificate of occupancy for such dwelling. The mayor's office of housing recovery shall establish guidelines for the exercise of its discretion pursuant to this section to exclude the use of this option where the pre-existing violations consist of work without a permit that substantially increased the square footage of the dwelling or where the pre-existing violations are of such a nature that there is no reasonable expectation that the violations will be corrected in the future.

§ 6. **Letter of completion where no certificate of occupancy is required.** Where a letter of completion is required for the alteration of a one- to four-family dwelling funded through a contract or disbursement agreement held by a contracting agency under the build it back program, such letter may be issued notwithstanding pre-existing violations or pre-existing permits that have

not been signed off. This section shall not apply where, in accordance with sections 28-118.3.2 or 28-118.3.3 of the administrative code, such work would require the issuance of a new certificate of occupancy.

§ 7. **Waiver of penalties by the department of buildings.** Notwithstanding the provisions of sections 28-213.1.1, 28-213.1.2 and 28-213.3 of the administrative code, civil penalties that may be imposed for pre-existing violations for work without a permit which would otherwise be required to be paid before the issuance of a permit shall be waived by the department of buildings with respect to permits for work on one- to four-family dwellings funded through contracts or disbursement agreements with contracting agencies under the build it back program. Any necessary permits for such work shall be issued, provided all other requirements for such permits are met.

§ 8. Except as specifically provided, nothing in this local law is intended to grant authorization for any work to be done in any manner in violation of the provisions of the New York city construction codes, the zoning resolution or any other law or rules.

§ 9. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on October 27, 2016 and approved by the Mayor on November 2, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 136 of 2016, Council Int. No. 1341 of 2016) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel