Legislation Details (With Text)

File #:	Int 0919-2009 **Version:** A	**Name:**	Coordination between the department of buildings and other governmental agencies when development is proposed for the city's coastal zone
Type:	Introduction	**Status:**	Enacted
		In control:	Committee on Environmental Protection
On agenda:	1/28/2009		
Enactment date:	3/18/2009	**Enactment #:**	2009/021

Title: A Local Law to amend the administrative code of the city of New York, in relation to coordination between the department of buildings and other governmental agencies when development is proposed for the city's coastal and water-sensitive inland zones.

Sponsors: Albert Vann, Leroy G. Comrie, Jr., Bill De Blasio, Lewis A. Fidler, Alan J. Gerson, Letitia James, G. Oliver Koppell, Domenic M. Recchia, Jr., James Sanders, Jr., Thomas White, Jr., Maria Del Carmen Arroyo, Daniel R. Garodnick, Mathieu Eugene, James F. Gennaro, David I. Weprin

Indexes:

Attachments: 1. Int. No. 919 - 1/28/09, 2. Committee Report 1/22/09, 3. Hearing Testimony 1/22/09, 4. Hearing Transcript 1/22/09, 5. Committee Report 2/25/09, 6. Hearing Transcript 2/25/09, 7. Committee Report - Stated Meeting 2/26/09, 8. Hearing Transcript - Stated Meeting 2/26/09, 9. Fiscal Impact Statement, 10. Local Law

Date	Ver.	Action By	Action	Result
1/22/2009	*	Committee on Environmental Protection	P-C Item Laid Over by Comm	
1/22/2009	*	Committee on Environmental Protection	Hearing on P-C Item by Comm	
1/28/2009	*	City Council	Introduced by Council	
1/28/2009	*	City Council	Referred to Comm by Council	
2/25/2009	*	Committee on Environmental Protection	Hearing Held by Committee	
2/25/2009	*	Committee on Environmental Protection	Amendment Proposed by Comm	
2/25/2009	*	Committee on Environmental Protection	Amended by Committee	
2/25/2009	A	Committee on Environmental Protection	Approved by Committee	Pass
2/26/2009	A	City Council	Approved by Council	Pass
2/26/2009	A	City Council	Sent to Mayor by Council	
3/18/2009	A	Mayor	Hearing Held by Mayor	
3/18/2009	A	Mayor	Signed Into Law by Mayor	
3/18/2009	A	City Council	Recved from Mayor by Council	

Int. No. 919-A

By Council Members Vann, Comrie, De Blasio, Fidler, Gerson, James, Koppell, Recchia Jr., Sanders Jr., White Jr., Arroyo, Garodnick, Eugene, Gennaro and Weprin.

A Local Law to amend the administrative code of the city of New York, in relation to coordination between the department of buildings and other governmental agencies when development is proposed for the city's coastal and water-sensitive inland zones.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that development in the New York City coastal zone is subject to the jurisdiction of the New York State Department of Environmental Conservation (DEC) and typically requires issuance of a tidal wetlands permit and a coastal erosion hazard permit. Such development may also require the issuance of a freshwater wetlands permit if regulated freshwater wetlands are on the property or a floating objects permit, depending on development planned. DEC's Coastal Erosion Management Regulations are designed, in part, to restrict or prohibit development in natural protective feature areas so that new buildings or structures are placed a safe distance from areas of active erosion and the impacts of coastal storms. These regulations are also intended to restrict development involving public investment in services or facilities likely to encourage new permanent development in coastal erosion hazard areas. Other approvals may be required for development in the coastal zone, including approvals by the United States Army Corps of Engineers.

The Council finds, however, that applicants may not be aware of the need to coordinate with the Department of Environmental Conservation and other appropriate agencies when projects are located within the coastal or water-sensitive inland zones or that applicants for permits may deliberately fail to disclose on their permit application to the Department of Buildings that their properties are located within the such zones. Therefore the Council finds that coordination with the Department of Environmental Conservation and other agencies must be required by the Department of Buildings in any case where an application for development is located within the coastal and/or water sensitive inland zones of New York City.

§2. Article 104 of chapter one of title 28 of the administrative code of the city of New York is amended by adding a new section 28-104.9 to read as follows:

§28-104.9 Coastal zones and water-sensitive inland zones. Construction documents shall comply with

sections 28-104.9.1 through 28-104.9.6 relating to work in coastal zones and water-sensitive inland zones.

§28-104.9.1 Definitions. As used in section 28-104.9 the following terms shall have the following meanings:

COASTAL ZONES AND WATER-SENSITIVE INLAND ZONES. Areas of land comprising tidal wetlands, freshwater wetlands, coastal erosion hazard areas, coastal areas of special flood hazard or rivervine and other inland areas of special flood hazard.

TIDAL WETLANDS. Areas of land as identified on the tidal wetland inventory issued by the New York state department of environmental conservation in accordance with section 25-0201 of the New York state environmental conservation law, as well as any adjacent areas as such term is defined in section 661.4 of title six of the New York code of rules and regulations;

FRESHWATER WETLANDS. Areas of land as identified on the final map issued by the New York state department of environmental conservation in accordance with section 24-0301 of the New York state environmental conservation law, as well as any adjacent areas as such term is defined in section 662.1 of title six of the New York code of rules and regulations.

COASTAL EROSION HAZARD AREAS. Areas of land as identified on the final map issued by the New York state department of environmental conservation in accordance with section 34-0104 of the new york state environmental conservation law;

COASTAL AREAS OF SPECIAL FLOOD HAZARD. Areas of land as identified on the flood insurance rate maps referenced in New York city building code section BC G402 pursuant to article 36 of the New York state environmental conservation law.

RIVERVINE AND OTHER INLAND AREAS OF SPECIAL FLOOD HAZARD. Areas of land, including floodways, as identified on the flood insurance rate maps referenced in section BC G402 of the New York city building code pursuant to article 36 of the New York state environmental conservation law.

STRUCTURE. Any object constructed, installed or placed in, on or under land or water, including, but not

limited to, a building, permanent shed, deck, in-ground or aboveground swimming pool, garage, mobile home, paving, road, public utility service distribution, transmission and collection system, storage tank, pier, dock, wharf, groin, jetty, seawall, revetment, bulkhead or breakwater.

§28-104.9.2 Statement and submission by applicant. It shall be the duty of an applicant for construction document approval to determine whether the proposed work is located within a coastal zone or a water-sensitive inland zone subject to section 28-104.9.3 and/or section 28-109.4. Applications for construction document approval shall include a statement by the applicant indicating whether the proposed work is located within a coastal zone or water-sensitive inland zone subject to such sections. The failure to disclose that proposed work is within a coastal zone or water-sensitive inland zone subject to such sections shall be a violation of this code.

§28-104.9.3 Coordination with department of environmental conservation and other agencies. The commissioner shall not approve construction documents for construction of a new structure, the horizontal enlargement of a structure or to excavate or fill any land, within a tidal wetland, a tidal wetland adjacent area, freshwater wetland, freshwater wetland adjacent area, or costal erosion hazard area, without documentation satisfactory to the commissioner that the New York state department of environmental conservation, and such other governmental agencies as are applicable, have issued any applicable permits or other approvals for such construction, excavation or fill.

§28-104.9.4 Compliance with special flood hazard area requirements mandated within special flood hazard areas. Within coastal areas of special flood hazard and areas of special flood hazard, the commissioner shall not approve construction documents for construction or alteration of buildings or structures, including alterations pursuant to section 28-101.4.3, or for any other activity regulated by section BC G201 of the New York city building code, unless the application complies with the requirements of Appendix G of the New York city building code.

§28-104.9.5 False statement or omission. No person shall submit an application for construction

document approval for any structure within a coastal zone or water-sensitive inland zone which falsely avers or by omission causes the department to determine that the subject property is not located within such zone or that the New York state department of environmental conservation and other appropriate agencies have issued the appropriate permits or approvals when they did not.

§28-104.9.6 Revocation of approval of construction documents. Where the department determines that work is located within a coastal zone or water-sensitive inland zone after construction documents have been approved for such work and/or that the documentation required by sections 28-104.9.2 through 28-104.9.4 has not been submitted, the department shall revoke such approval and any associated work permits that may have been issued for such work in accordance with section 28-104.2.10.

§3. This local law shall take effect on July 1, 2009 and shall apply to applications for construction document approval pending on such date, except that the commissioner of buildings shall take such measures as are necessary for its implementation prior to such date, including the promulgation of rules.

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2/18/09 6:30 pm