

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2019**

No. 106

Introduced by Council Members Rosenthal, Ayala, Lancman, Kallos, Perkins and Rivera.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to submittal of construction documents, applicant and owner statements, and tenant protection plans

Be it enacted by the Council as follows:

Section 1. Section 28-104.7 of the administrative code of the city of New York is amended by adding a new section 28-104.7.16 to read as follows:

§ 28-104.7.16 Tenant protection plan. The title sheet of construction documents shall contain a statement requiring a tenant protection plan be submitted in accordance with the requirements of article 120 prior to the issuance of a permit for alteration, construction or partial demolition work in a building containing one or more occupied dwelling units.

§ 2. Section 28-104.8 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§ 28-104.8 Applications. All applications shall comply with sections 28-104.8.1 through [28-104.8.4] 28-104.8.3.

§ 3. Item 2 of section 28-104.8.1 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is repealed and items 3 and 4 of section 28-104.8.1 are renumbered 2 and 3, respectively.

§ 4. Section 28-104.8.2 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§28-104.8.2 Owner [statement] statements. The application shall contain a signed statement

by the owner, and, in the case of cooperative or condominium forms of ownership, the application shall also contain a statement by the cooperative or condominium board, affirming that the applicant is authorized to make the application and, if applicable, acknowledging that construction and related documents will be accepted with less than full examination by the department based on the professional certification of the applicant. Such statement shall list the owner's full name and address, as well as the names of the principal officers, partners or other principals if a corporation, partnership or other entity. Principal officers of a corporation shall be deemed to include the president, vice presidents, secretary and treasurer. Where a current deed holder with a valid property interest or a court appointed entity or equivalent in charge of the property, or in the case of a cooperative or condominium unit, the cooperative or condominium board, notifies the department in writing that the applicant does not have authority to make the application, the department is authorized pursuant to section 28-104.2.10 to revoke approval of construction documents. *In addition, the application shall contain the following:*

1. A signed statement certifying whether the building to be altered, constructed or demolished contains one or more occupied dwelling units;

2. A signed statement indicating whether the building to be altered, constructed or demolished contains housing accommodations subject to rent control or rent stabilization under chapters 3 and 4 of title 26 of the administrative code or rent regulation under Article 7-C of the Multiple Dwelling Law; and

3. If the building to be altered, constructed or demolished contains occupied housing accommodations subject to rent control under chapter 3 of title 26 of the administrative code, the application shall contain a signed statement indicating that the owner has notified the New York state division of homes and community renewal that the owner has complied with all requirements imposed by the regulations of such agency as preconditions for such filing; or that the owner has not notified such agency because the nature and scope of the work proposed, pursuant to such regulations, does not require notification; or, if the building is subject to Article 7-C of the Multiple Dwelling Law, the application shall contain a signed statement indicating that the owner will notify the New York City Loft Board of the filing of the construction documents and will comply with all requirements imposed by Multiple Dwelling Law Article 7-C and the Loft Board's rules.

§ 5. Chapter 1 of title 28 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to add a new article 120, and section 28-104.8.4 of the administrative code of the city of New York, as amended by local law number 154 for the year 2017, is renumbered 28-120.1 and amended to read as follows:

ARTICLE 120
TENANT PROTECTION PLAN

[§ 28-104.8.4] § 28-120.1 Tenant protection plan. [Construction documents] *A tenant protection plan shall be prepared and submitted for the alteration[s], construction, or partial demolition of buildings in which any dwelling unit will be occupied during construction [shall include a tenant protection plan], including newly constructed buildings that are partially occupied where work is ongoing. The tenant protection plan shall be prepared by a registered design professional and filed with the department. The registered design professional preparing the tenant protection plan shall be retained by the general contractor performing the alteration, construction, or partial demolition work.* Such plan shall contain a statement that the building contains dwelling units that will be occupied during construction and shall indicate in sufficient detail the specific units that are or may be occupied during construction, the means and methods to be employed to safeguard the safety and health of the occupants throughout the construction, including, where applicable, details such as temporary fire-rated assemblies, opening protectives, or dust containment procedures. Such means and methods shall be described with particularity and in no case shall terms such as “code compliant,” “approved,” “legal,” “protected in accordance with law” or similar terms be used as a substitute for such description. The elements of the tenant protection plan may vary depending on the nature and scope of the work but at a minimum shall make detailed and specific provisions for:

1. Egress. At all times in the course of construction provision shall be made for adequate egress as required by this code and the tenant protection plan shall identify the egress that will be provided. Required egress shall not be obstructed at any time except where approved by the commissioner.

2. Fire safety. All necessary laws and controls, including those with respect to occupied dwellings, as well as additional safety measures necessitated by the construction shall be strictly observed.

3. Health requirements. Specification of means and methods to be used for control of dust, disposal of construction debris, pest control, and maintenance of sanitary facilities[, and limitation of noise to acceptable levels] shall be included.

3.1. There shall be included a statement of compliance with applicable provisions of law relating to lead and asbestos, and such statement shall describe with particularity what means and methods are being undertaken to meet such compliance.

4. Compliance with housing standards. The requirements of the New York city housing maintenance code, and, where applicable, the New York state multiple dwelling law shall be strictly observed.

5. Structural safety. No structural work shall be done that may endanger the occupants.

6. Noise restrictions. *Specification of means and methods to be used for the limitation of noise to acceptable levels in accordance with the New York city noise control code shall be included. Where hours of the day or the days of the week in which construction work may be undertaken are limited pursuant to the New York city noise control code, such limitations shall be stated.*

7. Maintaining essential services. Where heat, hot water, cold water, gas, electricity, or other utility services are provided in such building or in any dwelling unit located therein, the tenant protection plan shall specify the means and methods to be used for maintaining such services during such work in accordance with the requirements of the New York city housing maintenance code. If a disruption of any such service is anticipated during the work, then such plan shall specify the anticipated duration of such disruption and the means and methods to be employed to minimize such disruption, including the provision of sufficient alternatives for such service during such disruption. *Notification of the disruption must be given to all affected occupants of occupied dwelling units.*

Exception: *In the following instances, the tenant protection plan may be prepared and filed by the registered design professional of record for the alteration, construction, or partial demolition work as part of the underlying application:*

1. *Work in occupied one- and two-family homes.*
2. *Work limited to the interior of a single dwelling unit of an occupied multiple dwelling with no disruption to the essential services of other units, where such dwelling is owner-occupied. For a dwelling unit within a property that is owned by a condominium or held by a shareholder of a cooperative corporation under a proprietary lease, the unit must be occupied by the owners of record for such unit.*

[§ 28-104.8.4.1] § 28-120.1.1 Public availability of tenant protection plan. Upon issuance of a permit for work containing a tenant protection plan, the department shall make the tenant protection plan publicly available on its website.

[§ 28-104.8.4.2] § 28-120.1.2 Provision of copy of tenant protection plan to occupants upon request. The owner of a building undergoing work for which a tenant protection plan is required by section [28-104.8.4] 28-120.1 shall, upon request from an occupant of a dwelling unit within such building, provide such occupant with a paper copy of the tenant protection plan approved by the department.

[§ 28-104.8.4.3] § 28-120.1.3 Notice to occupants. Upon issuance of a permit for work containing a tenant protection plan, the owner shall (i) distribute a notice regarding such plan to each occupied dwelling unit [or] *and* (ii) post a notice regarding such plan in a conspicuous manner in the building lobby, as well as on each floor within ten feet of the elevator, or in a building where there is no elevator, within ten feet of or in the main stairwell on such floor. The notice shall be in a form created or approved by the department and shall include:

1. A statement that occupants of the building may obtain a paper copy of such plan from the owner and may access such plan on the department website;
2. The name and contact information for the site safety manager, site safety coordinator or superintendent of construction required by section 3301.3 of the New York city building code, as applicable, or, if there is no site safety manager, site safety coordinator or superintendent of construction, the name and contact information of the owner of the building or such owner's designee; and
3. A statement that occupants of the building may call 311 to make complaints about the work.

§ 28-120.2 Phased tenant protection plans. *Multiple layouts of the tenant protection features enumerated in section 28-120.1 may be submitted at any time during construction operations to show phased tenant protection plan designs consistent with the phase of anticipated work. Layouts submitted subsequent to a previously approved tenant protection plan shall constitute an amendment to such plan. Such amended plan shall be approved by the department prior to the commencement of the work requiring such amended plan.*

§ 28-120.3 Contractor statement. *The permit holder for the underlying alteration, construction, or partial demolition shall sign a statement certifying that the tenant protection plan submitted by the registered design professional coordinates with the scope of work intended.*

Exception: *This statement shall not be required for:*

1. *Work in occupied one- and two-family homes.*
2. *Work limited to the interior of a single dwelling unit of an occupied multiple dwelling with no disruption to the essential services of other units, where such dwelling is owner -occupied. For a dwelling unit within a property that is owned by a condominium or held by a shareholder of a cooperative corporation under a proprietary lease, the unit must be occupied by the owners of record for such unit.*

§ 6. Section 28-105.12 of the administrative code of the city of New York, is amended by adding a new section 28-105.12.10 to read as follows:

§28-105.12.10 Tenant protection plan required. *Where a tenant protection plan is required by article 120, all work shall adhere to the tenant protection plan.*

§ 7. Section BC 110.3.7 of the building code of the city of New York, as added by local law number 154 for the year 2017, is amended to read as follows:

110.3.7 Tenant protection plan compliance inspections. For buildings undergoing work for which a tenant protection plan is required by [section 28-104.8.4] *Article 120 of Title 28 of the*

[administrative code] *Administrative Code*, inspections shall be made by the department to determine compliance with the tenant protection plan.

§ 8. Section BC 3303.10.1 of the building code of the city of New York, as amended by local law number 141 for the year 2013 and further amended by local law number 154 for the year 2017, is amended to read as follows:

3303.10.1 Tenant protection plan. In buildings containing *any* occupied dwelling units, including newly constructed buildings that are partially occupied where work is still ongoing within the building, all *alteration*, construction, or *partial* demolition work shall be performed in accordance with a tenant protection plan as required by [Chapter 1] *Article 120* of Title 28 of the *Administrative Code*.

§ 9. Section 27–2009.2 (d) of the administrative code of the city of New York as amended by local law number 159 for the year 2017, is amended to read as follows:

d. Tenant protection plan. When notice is required pursuant to this section, the owner shall (i) distribute a notice meeting the requirements of [section 28-104.8.4.3 of the code] *article 120 of title 28 of the administrative code* regarding the tenant protection plan to each occupied dwelling unit [or] *and* (ii) post such notice in a conspicuous manner in the building lobby, as well as on each floor within 10 feet of the elevator, or in a building where there is no elevator, within 10 feet of the main stairwell on such floor.

§ 10. This local law takes effect nine months after it becomes law, except that the commissioner of buildings may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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 May 8, 2019 and returned unsigned by the Mayor on June 11, 2019.

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. 106 of 2019, Council Int. No. 1107-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.