

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2009**

No. 77

Introduced by Council Members Gerson, The Speaker (Council Member Quinn), Crowley, Ulrich, White Jr., Koppell, Gennaro, Brewer, Fidler, Gentile, Gonzalez, James, Liu, Nelson, Reyna, Seabrook, Stewart, Weprin, Jackson, Recchia Jr., Vallone Jr. and Sears (in conjunction with the Mayor).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the concurrent performance of demolition work and asbestos abatement activities within the same building.

Be it enacted by the Council as follows:

Section 1. Section 24-146.1 of the administrative code of the city of New York is amended by adding a new subdivision o to read as follows:

(o) (1) *No asbestos abatement activities shall be performed within a building concurrently with demolition work for the full demolition of such building or concurrently with the removal of one or more stories of such building, except as provided in this subdivision and the rules of the department.*

(2) *Prior to the issuance of a full demolition permit by the department of buildings, the owner of the building to be demolished shall submit to the department of buildings (i) certification, in a form to be provided by the rules of the department of environmental protection, that the building is free of asbestos containing material or, (ii) documentation that the commissioner of environmental protection has issued a variance from this requirement pursuant to subdivision (i) of this section and the rules of the*

department, subject to the additional conditions set forth in paragraph four of this subdivision.

(3) Prior to the issuance of an alteration permit by the department of buildings to remove one or more stories of a building, the owner of the building shall submit certification to the department of buildings in a form to be provided by the rules of the department of environmental protection (i) that the stories to be removed are free of asbestos containing material and that no abatement activities will be performed anywhere in the building concurrently with the removal work authorized by such permit or (ii) that the commissioner of environmental protection has issued a variance from these requirements pursuant to subdivision (i) of this section and the rules of the department, subject to the additional conditions set forth in paragraph four of this subdivision.

(4) Prior to granting any variance pursuant to subdivision (i) of this section relating to the full demolition of a building or the removal of one or more stories of a building that would permit the performance of abatement activities concurrent with such demolition or removal work within the same building, the commissioner of environmental protection shall notify and consult with the commissioner of buildings and the fire commissioner regarding the appropriate safeguards for such work. Notwithstanding any inconsistent provision of section 24-146.3 of the administrative code, where a variance is issued to perform abatement activities and demolition or removal work concurrently within the same building, the asbestos abatement activities may not be performed without an asbestos permit issued pursuant to section 24-146.3, regardless of whether such a permit would otherwise be required to perform such

activity.

(5) The commissioner shall post on-line within seven days notice of any variance granted under this subdivision with a statement of the reasons leading to his or her decision.

(6) This subdivision shall not apply to full demolition or the removal of one or more stories performed as emergency work pursuant to article 215 of chapter 2 of title 28 of the administrative code where the emergency warrants immediate commencement of the work or full demolition with asbestos in place authorized in accordance with 12 NYCRR 56-11.5.

§2. Article 106 of chapter 1 of title 28 of the administrative code of the city of New York, as added by local law number 37 for the year 2009, is amended by adding new sections 28-106.1.1 and 28-106.1.2 to read as follows:

§28-106.1.1 Full demolition permit. The commissioner shall not issue a full demolition permit unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection that (i) the building is free of asbestos containing material, or (ii) the commissioner of environmental protection, has issued a variance from this requirement in accordance with subdivision (o) of section 24-146.1 of the administrative code and the rules of the department of environmental protection, subject to the requirement that demolition work will be performed only in parts of the building that are certified free of asbestos containing material. The full demolition permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the demolition job.

Exception: This section 28-106.1.1 shall not apply to full demolition performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work or full demolition with asbestos in place authorized pursuant to 12 NYCRR 56-11.5.

§ 28-106.1.2 Alteration permit for the removal of one or more stories. The commissioner shall not issue an alteration permit for the removal of one or more stories of a building unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection that (i) the stories to be removed are free of asbestos containing material and that no abatement activities will be performed anywhere in the building concurrently with the removal work authorized by such permit or (ii) the commissioner of environmental protection has issued a variance from these requirements in accordance with subdivision (o) of section 24-146.1 of the administrative code and the rules of the department of environmental protection, subject to the requirement that work authorized by the alteration permit will be performed only in parts of the building that are certified free of asbestos containing material. The alteration permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the work.

Exception: This section 28-106.1.2 shall not apply to removal of one or more stories performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work.

§3. This local law shall take effect 180 days after it shall have been enacted into law, except that prior to such date the commissioner of buildings and the commissioner of environmental protection may take any administrative action, including the promulgation of rules, that may be necessary for the timely implementation of this local law.

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 ...November 30, 2009..... and approved by the Mayor onDecember 7, 2009.....

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

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 77 of 2009, Council Int. No. 998-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on November 30, 2009:
45 for, 0 against, 1 not voting.
Was signed by the Mayor on December 7, 2009
Was returned to the City Clerk on December 7, 2009

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.