BASEMENT APARTMENT PILOT IN EAST NEW YORK (LOCAL LAW 49 OF 2019)
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This presentation will provide an overview of the proposed Intro No. 1004-A, which was enacted by City Council on February 21st 2019 and established a demonstration program for the creation of residential units in the basements and cellars of certain one- and two-family dwellings in Brooklyn Community District 5. This upcoming local law is intended to provide more options for affordable housing in the City through the safe creation of habitable apartments located partially below grade. The discussion review the current New York City construction code requirements for creating dwelling units in basement stories as well as provisions related to the construction codes as outlined in the upcoming Local Law, such as minimum ceiling heights, additional allowances for window wells and sprinklers. The course will also provide a brief overview of the administrative provisions for the demonstration program, including the eligible program area and time limit to file construction drawings.
LEARNING OBJECTIVES

At the end of this presentation, you will be able to:

1. Recognize current construction code requirements applicable to the creation of dwelling units in basement stories.

2. Discuss and become familiar with provisions from the upcoming local law, related to the construction codes as part of the demonstration program for the creation of dwelling units in basement and cellars of certain one- and two-family dwellings.

3. Outline specific provisions, such as minimum ceiling heights, additional allowances for window wells and sprinklers, in creating basement or cellar dwelling units as part of the demonstration program.

4. Examine administrative provisions from the upcoming local law that will facilitate the demonstration program in Brooklyn Community District.
INTRODUCTION

- LL 49/2019, previously Intro No. 1004-A, enacted into law on March 4, 2019

  - Demonstration program for basement and cellar dwelling units in certain 1- and 2-family dwellings in Brooklyn Community Board 5 (East New York)

  - Effective date of July 2, 2019
BASEMENT APARTMENT PILOT: DEMONSTRATION PROGRAM

- Basement and cellar apartments
  - New class of affordable housing

LL 49/2019
BASEMENT APARTMENT PILOT: DEMONSTRATION PROGRAM

LL 49/2019

- East New York
  - Studied as part of the rezoning plan for East New York (ENY)
  - Building stock with high potential for basement and cellar apartments
BASEMENT APARTMENT PILOT: DEMONSTRATION PROGRAM

LL 49/2019

- Creating more affordable housing options
  - Demonstrate that cellar occupancy may be safely accomplished

- Report summarizing impact of program to be submitted within 48 months of effective date
BASEMENT APARTMENT PILOT

- Current requirements for basement apartments
- LL 49/2019 provisions that modify or add to the current Construction Code requirements
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

- Basement Apartments
  - Zoning Resolution
  - Housing Maintenance Code
  - Construction Codes
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

- Zoning Resolution
  - Provisions based on project-specific zoning district
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Districts
BASMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution

- Floor Area Ratio
  - Cellar spaces used for dwelling purposes shall be counted toward floor area
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution

- Density
  - Maximum number of dwelling units
Zoning Resolution: Density

<table>
<thead>
<tr>
<th>District</th>
<th>Dwelling Unit Factor</th>
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<tbody>
<tr>
<td>R1-1</td>
<td>4,750</td>
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<tr>
<td>R1-2</td>
<td>2,850</td>
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<tr>
<td>R2 R2A</td>
<td>1,900</td>
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<tr>
<td>R2X</td>
<td>2,900</td>
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<tr>
<td>R3-1R3-2¹</td>
<td>625</td>
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<tr>
<td>R3A</td>
<td>710</td>
</tr>
<tr>
<td>R3-2 R4 R4-1 R4B</td>
<td>870</td>
</tr>
<tr>
<td>R3X</td>
<td>1,000</td>
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<tr>
<td>R4A</td>
<td>1,280</td>
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<tr>
<td>R5 R5D</td>
<td>760</td>
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<tr>
<td>R4(infill) R5(infill) R5B</td>
<td>900</td>
</tr>
<tr>
<td>R5A</td>
<td>1,560</td>
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<tr>
<td>R5B²</td>
<td>1,350</td>
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<td>R6 R7</td>
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<td>R8 R8A R8X R9 R9A</td>
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<tr>
<td>R9-1 R9X R10</td>
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</table>

¹ for single- and two-family detached and semi-detached residences
² for single- and two-family residences
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution

- Parking
  - Additional parking space required for additional dwelling unit
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution: Parking
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Housing Maintenance Code

- Cellar Occupancy
- Rental of Basement
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

2014 New York City Construction Codes

- Ceiling heights
- Light and ventilation
- Egress
- Optional use of the 1968 Code for Prior Code buildings, with exceptions
BASEMENT APARTMENT PILOT:
ELIGIBILITY

Existing building located in East New York
BASEMENT APARTMENT PILOT: ELIGIBILITY

- Existing building located in East New York
- Brooklyn Community District 5

- Excluding Special Enhanced Commercial Districts and other areas generally south of line drawn under LL 49/2019
BASEMENT APARTMENT PILOT: ELIGIBILITY

- Existing building located in East New York
- Brooklyn Community District 5
  - Excluding Special Enhanced Commercial Districts and other areas generally south of line drawn under LL 49/2019
- Existing 1 or 2 family building w/basement or cellar level
  - Existing 1 family building with basement or cellar level OR
  - Existing 2 family building with existing apartment entirely on the basement or cellar level
BASEMENT APARTMENT PILOT: ELIGIBILITY

- Existing building located in East New York

- Brooklyn Community District 5
  - Excluding Special Enhanced Commercial Districts and other areas generally south of line drawn under LL 49/2019

- Existing 1 or 2 family building w/basement or cellar level
  - Existing 1 family building with basement or cellar level OR
  - Existing 2 family building with existing apartment entirely on the basement or cellar level

- Basement or cellar apartment may be created or altered under LL 49/2019
BASEMENT APARTMENT PILOT: PROGRAM AREA

Brooklyn Community Board 5

- All areas of East New York, including:
  - Cypress
  - Spring Creek
  - Starrett City
  - Gateway
  - Highland Park
BASEMENT APARTMENT PILOT: PROGRAM AREA

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CONFERENCE 2019
BASEMENT APARTMENT PILOT: CEILING HEIGHT

Minimum room ceiling height at 7’-6” with projections as allowed in 2014 BC 1208.2
BASEMENT APARTMENT PILOT: CEILING HEIGHT

Modified from 2009 IBC Commentary
BASEMENT APARTMENT PILOT: CEILING HEIGHT

- Fully detached homes with **no exterior walls less than 3’** from property line
  - Minimum ceiling height at **7’-0”** with no projections below
BASEMENT APARTMENT PILOT: CEILING HEIGHT
BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Automatic sprinkler system per BC 903 required for basement or cellar unit
BASEMENT APARTMENT PILOT: FIRE PROTECTION
BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Smoke and carbon monoxide (CO) detectors per BC 907
BASEMENT APARTMENT PILOT: FIRE PROTECTION
BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Fire Separation – 1 hour fire-resistance rating
  - Boiler and furnaces
BASEMENT APARTMENT PILOT:
FIRE PROTECTION
BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Fire separation – 1 hour fire-resistance rating
  - Egress stairs
  - Existing unit above
BASEMENT APARTMENT PILOT: FIRE PROTECTION

From 2009 IBC Commentary
■ Emergency escape and rescue windows
  - Required at all sleeping rooms per 2014 BC 1029 and 2014 FC 1025
BASEMENT APARTMENT PILOT: EGRESS

From 2009 IBC Commentary
BASEMENT APARTMENT PILOT: EGRESS

- Means of egress directly to the outdoors
  - Provide exit per 2014 BC 10, including access to a public way
BASEMENT APARTMENT PILOT: EGRESS

From 2009 IBC Commentary
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Light and ventilation requirements per 2014 BC Chapter 12
  - **Natural Ventilation**: minimum 1 window to provide 6 SF openable area with additional windows as needed to meet required glazed area for natural light
BASEMENT APARTMENT PILOT:
LIGHT & VENTILATION

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Window with portions below grade may be counted for natural light
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window head is 6” maximum below ceiling, or lowest permitted projection
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window well at exterior
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window well at exterior
  - Bottom of window well at least 6” below window sill
  - Area drain provided at bottom of window well
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

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Window well at exterior

- Window well extends at least 3 times depth of window portions below grade from window/building
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

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CONFERENCE 2019
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window well at exterior
  - Window well extends at least 2 times the depth of window below grade, with minimum 6” on each side of the window
BASEMENT APARTMENT PILOT:
LIGHT & VENTILATION

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CONFERENCE 2019

BUILDINGS

56
BASEMENT APARTMENT PILOT:
LIGHT & VENTILATION

- No cantilever or other obstruction over window that less than 3’ above window or projects more than 12” from window/building
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION
BASEMENT APARTMENT PILOT: CELLARS

- Dwelling unit in cellar may be created
BASEMENT APARTMENT PILOT: CELLARS
BASEMENT APARTMENT PILOT: CELLARS

- 2 independent, remote means of egress from cellar unit
BASEMENT APARTMENT PILOT: CELLARS
BASEMENT APARTMENT PILOT: CELLARS

- 2 independent, remote means of egress from cellar unit
BASEMENT APARTMENT PILOT: CELLARS
Finished ceiling **must** be min. 2’ above grade

Cellar will be counted as a story for building code and zoning
BASEMENT APARTMENT PILOT: CELLARS

PHOTO OF CELLAR APARTMENT FROM EXTERIOR
BASEMENT APARTMENT PILOT: OTHER AGENCY REQUIREMENTS

- Radon testing certification shall be submitted
- Required as part of DOB application
BASEMENT APARTMENT PILOT:
OTHER AGENCY REQUIREMENTS

RADON GETS IN THROUGH:

1. Cracks in solid floors.
2. Construction joints.
3. Cracks in walls.
5. Gaps around service pipes.
6. Cavities inside walls.
7. The water supply.

from a Citizen's Guide to Radon
BASEMENT APARTMENT PILOT: OTHER AGENCY REQUIREMENTS

- Vapor barriers, where no existing slab or soil excavation required inside the unit
  - Must be provided in newly created unit, certification shall be submitted
  - For existing units, environmental certification required
- Required as part of DOB application
BASEMENT APARTMENT PILOT: OTHER AGENCY REQUIREMENTS
BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Filing Applications
- Brooklyn borough office ONLY
- Alteration Type 1
### BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Alteration per LL 49 of 2019 on PW1

<table>
<thead>
<tr>
<th>11</th>
<th>Job Description</th>
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<tr>
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<td>Related DOB Job Numbers</td>
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<td>Primary application job no.</td>
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<th>Zoning Characteristics</th>
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<tr>
<td>12A</td>
<td>District(s)</td>
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<tr>
<td></td>
<td>Overlay(s)</td>
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<td>Special Dist.(s)</td>
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<td>Map Number</td>
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| 12B | Street legal width: ft. |
|     | Street Status: [ ] Public [ ] Private |
|     | If the zoning lot includes multiple tax lots, list all tax lots here |

<table>
<thead>
<tr>
<th>12C</th>
<th>Proposed Use*</th>
<th>Zoning Floor Area</th>
<th>District</th>
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<tr>
<td></td>
<td>sq. ft.</td>
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<table>
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<tr>
<th>Proposed Lot Details:</th>
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<tbody>
<tr>
<td>Lot Type: [ ] Corner [ ] Interior [ ] Through</td>
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<tr>
<td>Lot Coverage: %</td>
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<table>
<thead>
<tr>
<th>Proposed Yard Details:</th>
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<tr>
<td>Check here if no yards: [ ] or</td>
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<tr>
<td>Front Yard: ft.</td>
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**CONFERENCE 2019**
Filing Applications

- All drawings and Schedule A shall be noted with *Alteration per LL 49 of 2019*
Certificate of Occupancy

- Partial or Amended
- For newly created unit
Certificate of Occupancy

- Violations
  - Pre-existing
  - Violations during course of construction
BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Penalties
- Deferred

DOB Fees Waived
- Applicants participating in HPD’s program
Time Limit

- 18 months to file application with DOB from effective date
- File by **January 2, 2021**
BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

More Information
Project Guidelines on DOB website
www1.nyc.gov/site/buildings/business/project-guidelines.page

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BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

More Information
HPD’s Basement Apartment Conversion Pilot Program (BACPP) at www1.nyc.gov/site/hpd/developers/development-programs/basement-conversion.page