

Local Law Filing

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Town of Brookhaven

Local Law No. 5 of the year 2024

A local Law amending Chapter 16B Entitled “Building Construction Site Safety” of the Town Code of the Town of Brookhaven

Be enacted by the Town Board of the Town of Brookhaven as follows:

Local Law Number 5 of 2024

Chapter 16B entitled “Building Construction Site Safety” of the Town Code of the Town of Brookhaven

Section 1. Legislative Intent. It is the intent of this enactment of Chapter 16B entitled “Building Construction Site Safety” of the Town Code of the Town of Brookhaven to promote the safety of minor and major construction sites within the Town of Brookhaven. The provisions of this section are designed to provide that workers employed or otherwise engaged at such construction sites have received adequate safety training; that contractors performing construction work have essential safety training and that contractors performing construction work have essential safety training systems to prevent injuries and protect workers who are injured.

Section 2. Text Amendment. Chapter 16B entitled “Building Construction Site Safety” hereby enacted as follows:

§ 16B-1 Construction Site Safety Training

A. Purpose. The provisions of this section are intended to promote the safety of minor and major construction sites within the Town of Brookhaven. The provisions of this section are designed to provide that workers employed or otherwise engaged at such construction sites have received adequate safety training; that contractors performing construction work have essential safety training and that contractors performing construction work have essential safety training systems to prevent injuries and protect workers who are injured.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:
Applicant: The person who has applied for a building permit under the Town Code to perform a

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Minor or Major Construction Project, as defined herein.

Construction Worker: Any person engaged in the construction, alteration, demolition, repair and/or any types of construction work, done on a particular construction site covered by this Section. For purposes of this law "Construction Worker" excludes administrative, professional or executive employees, property owner(s), property manager(s), tenant(s), or any other Person not actively engaged in the construction, alteration, demolition, repair and/or any types of construction work done on a particular construction site covered by this Section.

CONTRACTOR

Any Person contracted or subcontracted to perform work covered by this section for or on behalf of any other Person.

CONSTRUCTION SITE

A parcel or parcels of land situated in a zoning classification other than a Single-Family Residential District, where a permit has been issued by the Town for the construction, demolition or alteration of buildings and structures or land use and/or for all alterations or changes in use thereto. The size of a construction site will be determined by sum of the footprint of all structure(s) and all site improvements, to be constructed, demolished or altered as reflected in the most recently approved site plan.

MAJOR CONSTRUCTION PROJECT

A construction site, other than one owned, operated, maintained, or otherwise controlled by the Town of Brookhaven, with an area greater than 75,000 square feet, which involves the construction, demolition or alteration of a structure or building.

MINOR CONSTRUCTION PROJECT

A construction site, other than one owned, operated, maintained, or otherwise controlled by the Town of Brookhaven, with an area greater than 35,000 square feet and less than or equal to 75,000 square feet, which involves the construction, demolition or alteration of a structure or building.

OSHA

The United States Department of Labor Occupational Safety and Health Administration.

OSHA 30-HOUR CLASS

A class that includes 30 or more hours in construction industry safety and health that is intended for workers and satisfies the following conditions:

- 1) Such class is: i) approved by OSHA and conducted in accordance with the OSHA outreach training program, or ii) an equivalent 30- or more hour construction industry safety and health class approved by OSHA, the United States Department of Labor, or the New York State Department of Labor and that is accepted by the Chief Building Inspector.
- 2) Such class consists of in-person training, actively proctored online training or, if such training is conducted before the effective date of this section, online training.

OSHA Site Safety Supervisor class:

a class or program that:

- 1). Is an apprenticeship program in a construction trade registered with the New York State Department of Labor; or
- 2). Is a sixty-two (62) hour Site Safety Supervisor Training program approved by the New York City Department of Buildings in accordance with Section 3302.1

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of the New York City Building Code; or,

3). Is no less than forty (40) hours of construction industry safety and health training consisting of (a) the completion of an OSHA 30-hour class approved by OSHA, (b) the completion of no less than an eight-hour site safety manager refresher course that provides training necessary to maintain a site safety supervisor card required by Section 3302.1 of the New York City Building Code, and (c) the completion of no less than a two-hour drug and alcohol awareness course that provides training necessary to maintain a site safety supervisor card required by Section 3302.1 of the New York City Building Code and that is accepted by the Chief Building Inspector.

PERMIT HOLDER

The person to whom a building permit has been issued or for whom a building permit has been applied.

PERSON

An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

SINGLE FAMILY RESIDENTIAL DISTRICT

Any parcel zoned A Residence 10 District, A Residence 5 District, A Residence 2 District, A Residence 1 District, A Residence District, B Residence 1 District, B Residence District, C Residence District, D Residence District, HF Horse Farm Residence District or RD Residential District.

SITE SAFETY DESIGNEE

The Site Safety Designee must have completed an OSHA Site Safety Supervisor class. On a Major Construction Project, the site safety designee shall use reasonable prudence to ensure that safety is maintained as job conditions dictate and shall complete any tasks required of a Site Safety Designee set forth in this section.

Site Safety Log. Each Permit Holder shall ensure that each Person employing or engaging Construction Workers on a Minor or Major Construction Site shall maintain a log, roster, sign in sheet, or similar system of tracking satisfactory to the Chief Building Inspector that (i) identifies all Construction Workers on a Minor or Major Construction Site; and, (ii) that all Construction Workers on a Minor or Major Construction Site have completed the OSHA 30 hour class required by this Section.

C. Safety training required.

1. In addition to any other applicable provisions of this Code, or any federal, state or county law or rule, each permit holder:

a. At a Minor Construction Site, shall be responsible for ensuring that each construction or demolition worker employed or otherwise engaged at such site by the permit holder or any person performing work for or on behalf of such Permit Holder at such site has successfully completed and maintains a current OSHA 30-hour class certificate during the period the construction worker is engaged to perform work on the Minor Construction Site..

b. At a Major Construction Site, shall be responsible for ensuring that a foreman or designated employee or individual otherwise engaged at such site by the permit holder or any person performing work for or on behalf of such permit holder is designated as a Site Safety Designee. The Site Safety Designee shall be tasked with ensuring that each Construction

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Worker employed or otherwise engaged at such site by the Permit Holder or any person performing work for or on behalf of such Permit Holder at the Construction Site is in compliance with § 16B-1(C)(1)(a) and shall report violations of this requirement to the Chief Building Inspector.

2. The Applicant, Permit Holder or any Person performing such work on behalf of the Permit Holder shall certify to the Chief Building Inspector, in a form and manner established by the Chief Building Inspector, that the requirements of § 16B-1(C)(1)(a) and/or (b) have been met.

3. The Applicant, Permit Holder or any Person performing such work on behalf of the Permit Holder shall certify that all New York State workers' compensation and insurance requirements have been met.

4. The Permit Holder shall be responsible for ensuring that each Person employing or engaging Construction Workers on a Minor or Major Construction Project maintains a Site Safety Log. Each Site Safety Log shall identify each Construction Worker employed or engaged by such Person and include, for each such worker, proof of compliance with § 16B-1 (C)(1)(a) and (b), as applicable. Such Site Safety Logs shall be made available to the Building Inspector upon request and shall be submitted to the Chief Building Inspector as a prerequisite to the issuance of a certificate of occupancy and/or certificate of completion.

D. Penalties.

1. a. Any violation of this section on a Minor or Major Construction Site shall be an offense punishable by a fine of not less than \$1,000 nor more than \$10,000. Each day that the violation occurs shall subject the Person in violation of this subsection to a separate fine under this subsection and the Permit Holder shall be jointly and severally liable for such fine(s).

b. Reduction in fees or penalties for sponsoring site safety training. The Chief Building Inspector shall establish by rule a program for establishing approved third-party safety persons or entities that can provide certifications set forth in this section and for reducing the amount of any fine to be imposed upon a person or any civil penalty to be imposed upon a person for a violation where one or more of the following conditions is satisfied: 1. Such person demonstrates, in a form and manner established by the Chief Building Inspector, that such person has paid, either directly or indirectly, for the costs of one or more workers who do not have training required to comply with this Chapter to obtain such training or has otherwise arranged for such workers to receive such training at no cost to such workers. 2. The fee or penalty to be imposed upon such person relates to a building site for which the owner of such site, or a person acting on such owner's behalf, demonstrates, in a form and manner established by the Chief Building Inspector, that such owner or such person acting on such owner's behalf has paid, either directly or indirectly, for the costs of one or more workers who do not have training required to comply with Chapter to obtain such training or has otherwise arranged for such workers to receive such training at no cost to such workers. Compliance with subsections b(1) and b(2) of this section may be satisfactorily satisfied by the filing of a certification, in a form approved by rule of the Chief Building Inspector, from a third party safety organization that the remedial training required by this section has been completed.

2. For a second or subsequent offense committed on a Minor or Major Construction Site where the Applicant or Permit Holder has been fined under section D(1) of this section or received a reduction in fees or penalties under section D(1) of this section within a period

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of five years from issuance of a final penalty relating to a prior offense of this Section or received a reduction in fees or penalties under section D(1) of this section, such violation shall be punishable by a fine of not less than \$3,000 nor more than \$20,000. Each day that a violation occurs shall subject the Person in violation of this section to a separate fine under this paragraph and the Permit Holder shall be jointly and severally liable for such fine(s).

3. In addition, any permit issued to a Permit Holder who has violated this section may be revoked by the Chief Building Inspector after giving the Applicant or Permit Holder written notice and an opportunity to be heard at hearing before the Chief Building Inspector for a determination whether revocation is appropriate. The Permit may be revoked after the Applicant or Permit holder has received notice of the determination to revoke and has failed to remedy the violation within five

(5) business days from the date of such notice.

4. The Chief Building Inspector shall be authorized to issue stop-work orders for violations of this section pursuant to § 16-9. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person or contractor performing, taking part in or assisting in the work shall suspend all construction activities until the stop-work order has been rescinded. A stop work order may be rescinded by the Chief Building Inspector upon certification by the Permit Holder or their designee, in a form prescribed by the Chief Building Inspector, that the mandates of this Chapter have been complied with by the Permit Holder.

5. A Certificate of Occupancy, shall not be issued to a Permit Holder or Applicant in the event any fines or stop work orders issued pursuant to this Chapter remain unpaid or open.


D. DETERMINATION BY COMMISSIONER AND ADMINISTRATIVE REVIEW

The determination of compliance with this Chapter shall be made and certified by the Chief Building Inspector.

Section 3 Authority. The Town Board is vested with the authority to make these amendments pursuant to Town Law Section 130 and in conformance with Municipal Home Rule Law Sections 10 and 20. The Town Board hereby intends to supersede any other statute or local law to the extent necessary to increase the minimum and maximum penalties and is vested with the authority to supersede same pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3).

Section 4. Effective date. This local law shall become effective immediately upon filing with the Secretary of State of the State of New York.

Dated: February 22, 2024
Farmingville, New York


Kevin J. LaValle, Town Clerk
Town of Brookhaven

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