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Proposed Int. No. 2278-A

By the Public Advocate (Mr. Williams) and Council Members Koslowitz, Holden and Chin (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to the licensing of general contractors

Be it enacted by the Council as follows:Section 1. Section 28-105.5.1 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:

§28-105.5.1 Applicant for permit. The applicant for a permit shall be the [person who] designee of the approved general contractor business that performs the work or retains a subcontractor to perform the work [or who retains a subcontractor to do the work] or with respect to work performed by employees of a city agency, the designee of such agency.

Exception: [For permits issued for plumbing work, fire protection and suppression work, and oil

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burner/boiler work, the applicant for such permits shall be the licensed master plumber, licensed master fire suppression piping contractor, or licensed oil-burning equipment installer, respectively, who performs the work.] Permits for work required to be performed by licensees other than licensed general contractors.

§ 2. Section 28-401.3 of the administrative code of the city of New York, is amended by adding and setting forth in alphabetical order in such section, definitions of "DESIGNEE", "GENERAL CONTRACTOR BUSINESS", "GENERAL CONTRACTOR WORK", "LICENSED GENERAL CONTRACTOR, LIMITED", and "LICENSED GENERAL CONTRACTOR, UNLIMITED" to read as follows:

DESIGNEE. A limited or unlimited licensed general contractor who has sole authority and full responsibility for all general contractor work performed in conjunction with a general contractor business, or performed by employees of a city agency, and for the supervision of all employees of the business or city agency who perform such work.

GENERAL CONTRACTOR BUSINESS. A sole proprietorship, partnership or corporation authorized by the commissioner to conduct general contractor work as defined in this section under a designee who holds a limited general contractor license or an unlimited general contractor license. The term "general contractor business" shall not be construed to mean a city agency that performs general contractor work.

GENERAL CONTRACTOR WORK. Work requiring a permit pursuant to this code to construct, enlarge, alter, repair, demolish, or remove any building or structure in the city, or change the use or occupancy of such building or structure or an open lot or portion thereof. The term "general contractor work" shall not be construed to mean work performed by an individual, corporation, partnership, or other business entity that holds another license pursuant to this code or subchapter twenty-two of chapter two of title twenty of the administrative code, and that is exclusively within the scope of such license.

LICENSED GENERAL CONTRACTOR, LIMITED. An individual who has satisfied the qualification requirements of this chapter for the limited general contractor license, has been issued such a license, and is authorized under the provisions of this chapter to perform general contractor work on a building that is not a major building as that term is defined in section 202 of the *New York city building code* and on a major building that is not subject to the scope of section 3310 of the *New York city building code*.

LICENSED GENERAL CONTRACTOR, UNLIMITED. An individual who has satisfied the qualification requirements of this chapter for the unlimited general contractor license, has been issued such a license, and is authorized under the provisions of this chapter to perform general contractor work.

§3. The term "GENERAL CONTRACTOR," in section 28-401.3 of the administrative code of the city of New York, as added by local law number 8 for the year 2008, is amended and set forth in alphabetical order in such section, to read as follows:

LICENSED GENERAL CONTRACTOR. [An individual, corporation, partnership or other business entity that applies for a permit pursuant to this code to construct a new residential structure containing no more than three dwelling units.] An individual who has satisfied the qualification requirements of this chapter for a limited general contractor license or an unlimited general contractor license, has been issued such a license, and

is authorized under the provisions of this chapter to perform general contractor work in the city of New York. The term "general contractor" shall not be construed to [include]mean an individual, corporation, partnership or other business entity that holds [a]another license pursuant to this code or subchapter twenty-two of chapter two of title twenty of the administrative code, and [enters into a contract to perform]performs work exclusively within the scope of such license, [nor shall it include an individual who constructs a residential structure containing no more than three dwelling units for his or her own occupancy,] or any subcontractors working for the licensed general contractor.

§4. Section 28-401.15 of title 28 of the administrative code of the city of New York, as added by local law number 8 for the year 2008 and amended by local law number 8 for the year 2009, is amended to read as follows:

28-401.15 Schedule of fees.

LICENSE TYPE	INITIAL FEE	RENEWAL FEE	ADDITIONAL FEES
Master rigger license.	$200	$150 triennially	Late-renewal fee: $50 Reissuance fee: $50
Special rigger license.	$100	$75 triennially	Late-renewal fee: $50 Reissuance fee: $50
Basic hoisting machine operator license (Class A).	$150	$150 triennially	Late-renewal fee: $50 Reissuance fee: $50
Basic hoisting machine operator license with endorsement to operate hoisting machinery without limitation or restriction (Class B).	$200	$150 triennially	Late-renewal fee: $50 Reissuance fee: $50
Special hoisting machine operator license (Class C).	$100	$75 triennially	Late-renewal fee: $50 Reissuance fee: $50
Concrete testing laboratory license.	$100	$75 annually	Late-renewal fee: $50 Reissuance fee: $50
Welder license.	$50	$45 triennially	Late-renewal fee: $50 Reissuance fee: $50
Master plumber license (certificate of competence).	$200	$150 triennially	Late-renewal fees: Up to 30 days late, $50; From 31 days to five years late, $100 for each year or part thereof. Reissuance fee: $50
Master plumber license plate.	$75	$100 triennially	Replacement fee upon loss of plate, w/affidavit: $100
Master plumber license seal.	$50	$75 triennially	Replacement fee upon loss of seal, w/affidavit: $75
Journeyman plumber registration.	$50		No renewal, no reissuance.
Master fire suppression piping contractor (class A, B or C) license (certificate of competence).	$200	$150 triennially	Late-renewal fees: Up to 30 days late, $50; From 31 days to five years late, $100 for each year or part thereof. Reissuance fee: $50
Master fire suppression piping contractor (class A, B or C) license plate.	$75	$100 triennially	Replacement fee upon loss of plate, w/affidavit: $100
Master fire suppression piping contractor (class A, B or C) license seal.	$50	$75 triennially	Replacement fee upon loss of seal, w/affidavit: $75
Journeyman fire suppression piping installer registration.	$50		No renewal, no reissuance.

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Oil-burning equipment installer. License (class A or B).	$100	$75 triennially	Late-renewal fee: $50 Reissuance fee: $50
High-pressure boiler operating engineer license.	$50	$45 triennially	Late-renewal fee: $50 Reissuance fee: $50
Portable high-pressure boiler operating engineer license.	$50	$45 triennially	Renewal fee includes renewal fee for a hoisting machine operator license. Late-renewal fee: $50 Reissuance fee: $50
Master sign hanger license.	$100	$75 triennially	Late-renewal fee: $50 Reissuance fee: $50
Special sign hanger license.	$100	$75 triennially	Late-renewal fee $50 Reissuance fee: $50
Outdoor advertising company registration.	As provided by dept rules.	As provided by dept rules.	As provided by dept rules.
Filing representative registration.	As provided by dept rules.	As provided by dept rules.	As provided by dept rules.
Reinstatement of expired license, certificate of competence or certification without examination, if approved by commissioner, in addition to applicable renewal fees.	Same as initial license.		$100 for each year or part thereof from date of expiration
Site safety coordinator certificate.	$100	$50	Late-renewal fee $50 Reissuance fee: $50
Site safety manager certificate.	$300	$150	Late-renewal fee $50 Reissuance fee: $50
[General contractor registration.]	[$300]	[$240 triennially]	[Late-renewal fee $50 Reissuance fee: $50]
Tower crane rigger license.	$150	$50 triennially	Late-renewal fee $50 Reissuance fee: $50
[Safety registration number (concrete contractor, demolition contractor, general contractor)]	[$80 each]	[$80 triennially]	[Late-renewal fee: $50 Reissuance fee: $50]
Lift director registration	As provided by dept rules.	As provided by dept rules.	As provided by dept rules.
Limited general contractor license.	As provided by dept rules.	As provided by dept rules.	As provided by dept rules.
Unlimited general contractor license.	As provided by dept rules.	As provided by dept rules.	As provided by dept rules.

§5. Item 15 of section 28-401.19 of title 28 of the administrative code of the city of New York, as added by local law number 8 for the year 2008, is renumbered 16 and amended to read as follows, and section 28-401.19, as added by local law number 33 for the year 2007, is amended by adding a new item 15 to read as

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follows:

15. Failure to demonstrate fitness to engage in the trade for which the individual is licensed.

[15.]16.With respect to a general contractor [registration]license or general contractor business, upon a finding that the applicant, designee or [registrant or] a business entity in which one of the applicant's or [registrant's]business's principals, officers or directors is a principal, officer or director has engaged in any of the acts set forth in items 1 through [14]15 or any of the following:

[15.1.]16.1. Fraud, misrepresentation or bribery in securing a sign-off of work or a temporary or permanent certificate of occupancy.

[15.2.]16.2. A practice [on the part of the registrant]of [failure]failing to timely perform or complete its contracts for the construction of new residential structures containing no more than three dwelling units, or the manipulation of assets or accounts, or fraud or bad faith.

[15.3.]16.3. Approval or knowledge [on the part of the registrant] of an act of omission, fraud, or misrepresentation committed by one or more agents or employees of the [registrant] licensee, and failure to report such act to the department.

[15.4. The applicant or registrant, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted] 16.4 Conviction of a crime which, in accordance with article twenty-three-a of the correction law, is determined to have a direct relationship to such person's fitness or ability to perform any of the activities for which a [registration] license is required under this article.

[15.5. The applicant or registrant, or any of its principals, officers or directors has] 16.5. Has been or is a principal, officer or director of a [registered] licensed general contractor business whose registration or license has been revoked.

§6 Section 28-401.19.4.2 of title 28 of the administrative code of the city of New York is REPEALED.

§7. Article 418 of title 28 of the administrative code of the city of New York, as added by local law number 8 for the year 2008 and amended by local law number 141 for the year 2013, is amended to read as follows:

ARTICLE 418
GENERAL CONTRACTOR [REGISTRATION]LICENSE

§28-418.1 Requirement of [registration] license. [On and after November 1, 2008, it] It shall be unlawful for a person to [conduct business as a general contractor] perform general contractor work unless such person holds a general contractor [registration] license in accordance with the provisions of this article or such work is performed under the supervision of a person who holds such a license.

§28-418.1.1 Expiration of [registration]license. A general contractor [registration]license shall expire on the third anniversary of such [registration]license or such other date as determined by the commissioner by rule so as to distribute the expiration dates of the [registrations]licenses evenly over the course of a year.

§28-418.2 Unlawful use of general contractor title. [On and after November 1, 2008, it] It shall be unlawful to use or cause to be used the title registered or licensed general contractor or any other title in a manner as to convey the impression that an individual, corporation, partnership or other business entity, or any person it employs, is a [registered] licensed general contractor, unless such individual, corporation, partnership or other business entity is [registered] licensed in accordance with the provisions of this article.

§28-418.3 Application requirements. An application for a general contractor [registration] license or renewal shall be made in writing to the commissioner on a form provided by the department and shall be accompanied by [the following:] such documentation as required by the department.

[1. If the applicant is an individual: the applicant's full name, residence address, business address and business telephone number;
2. If the applicant is a corporation:
   2.1. The corporate name, address and telephone number of the applicant's principal office or place of business;
   2.2. The date and state of incorporation;
   2.3. The name, residence address and residence telephone number of all corporate officers and registered agents and any person owning an interest of ten percent or more in the corporation;
   2.4. Proof that the corporation is in good standing under the laws of the state of New York;
2. If the applicant is a partnership:
   3.1. The name, address and telephone number of the applicant's principal office or place of business;
   3.2. The name, residence address and residence telephone number of all partners;
2. The registration fee;
3. A verified statement that the applicant is financially solvent;
4. The name and address of the principal location from which the applicant has engaged in the business of general contracting at any time within the last five years;
5. If the applicant is not a sole proprietor, proof that the applicant is authorized to do business in the state of New York;
6. Proof of insurance as required by section 28-401.9;
7. The name and address of the officer, principal or director of the applicant who is primarily responsible for the registrant's compliance with the requirements of this code or any rule adopted there under;
8. Any other information that the commissioner may require.]

[§28-418.3.1]§28-418.4 Financial solvency. Financial solvency is a requirement for all authorized general contractor businesses. For the purposes of this article, financial solvency shall mean that the [applicant's] operating capital of a general contractor business approved by the department pursuant to this article shall exceed twenty-five thousand dollars, or a higher amount as set forth in department rules, beginning 90 days prior to the license application.

[§28-418.4]§28-418.5 Warranties. A warranty shall be provided to the buyer of a new one-, two- or three-family structure that accords with the provisions of article thirty-six-B of the New York state general business law, including the following:

1. One year from and after the warranty date the home will be free from defects due to a failure to have been constructed in a skillful manner;

2. Two years from and after the warranty date the plumbing, electrical, heating, cooling and ventilation systems of the home will be free from defects due to a failure by the builder to have installed such

systems in a skillful manner; and

3. Six years from and after the warranty date the home will be free from material defects, including, but not limited to, any construction that is not in compliance with the building code or the zoning resolution of the city of New York.

[§28-418.4.1]§28-418.5.1 Modification prohibited. Except as otherwise provided in section seven hundred seventy-seven-b of such article thirty-six-B, no such warranty shall be modified or excluded in any way.

[§28-418.5]§28-418.6 Duties and responsibilities. Licensed general contractors shall be responsible for all work performed in accordance with permits issued under their license, and any associated work, including work performed by their subcontractors. The licensed general contractor shall comply with sections [28-418.5.1] §28-418.6.1 through [28-418.5.3]§28-418.6.3.

[§28-418.5.1]§28-418.6.1 Subcontractor information. The licensed general contractor shall be responsible for [providing information to the department about his or her subcontractors and the particular work they perform on jobs for which the department has issued permits to the general contractor. Such information shall be provided in a format and at the times specified in the rules of the department.] maintaining records that include current information about all permits obtained and all contractors or subcontractors performing work on any project permitted or requiring a permit under this code, including the contractor's or subcontractor's name and address, and, if applicable, their license number. The licensed general contractor shall, in a form and manner determined by the department, provide such records to the department at the start of the project and within 24 hours of a request by the commissioner.

[§28-418.5.2]§28-418.6.2 Technical reports. The licensed general contractor shall maintain at the work site such technical reports as specified in the rules of the department and shall make such reports available to department personnel on request.

[§28-418.5.3 Notice of pending disciplinary actions. The general contractor shall notify all of its suppliers of any pending suspension or revocation actions against such general contractor and shall provide an affidavit to the department stating that this notification has been made.]

§28-418.6.3 Submission of plan to reduce rate of hazardous violations. The commissioner may require any licensed general contractor and general contractor business to provide the department with a plan to improve its rate of hazardous violations or to submit a formal site safety plan meeting the requirements of this code. The plan must be approved by the department and may include such measures as employment of a safety compliance officer, at the licensee's expense, to ensure compliance with the approved plan.

§28-418.7 Qualifications. Applicants for a general contractor license shall meet the qualifications of sections 28-418.7.1 or 28-418.7.2.

§28-418.7.1 Licensed general contractor, limited. An applicant for a limited general contractor license shall:

1. Possess a valid Site Safety Training (SST) Supervisor Card.

2. Meet one of the following requirements:

2.1. Has received, at minimum, a baccalaureate degree from an accredited four-year college or

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university in the field of engineering, architecture, construction management, building construction/demolition or a degree deemed substantially similar by the department and has at least one year of practical field experience in general construction on buildings; or

2.2. Has a total of at least five years of practical experience working in a construction industry related field, at least three (3) of which shall have been in general construction on buildings, and the balance shall have been in or relating to engineering, architecture, construction/demolition supervision, or construction/demolition project management, or functions deemed substantially similar by the department; or

2.3. Is a New York State licensed Professional Engineer (PE) or Registered Architect (RA) in good standing with the state of New York and with the city of New York for a minimum of three (3) years immediately prior to application.

§28-418.7.2 Licensed general contractor, unlimited. An applicant for an unlimited general contractor license shall:

1. Possess a valid Site Safety Training (SST) Supervisor Card.

2. Successfully complete a Department-approved 40-hour Site Safety Manager training course.

3. Meet one of the following requirements:

3.1. Satisfy the qualification requirements for one of the bases in section 28-418.7.1 and have at least three (3) additional years of experience, within the five (5) years prior to application, performing work on a major building as defined in section 202 that is within the scope of work regulated by section 3310 of the *New York city building code.*

3.2 Is a New York city limited general contractor licensee in good standing for a minimum of three (3) years immediately prior to application and has at least three (3) years of practical experience, within the five (5) years prior to application, working as a limited general contractor and permit holder on projects subject to the requirements of Section 3301.13 of the *New York city building code.*

§28-418.8 General contractor business. It shall be unlawful for any person to engage in the business of performing general contractor work unless such business is approved by the department in accordance with this section. The application for approval of a general contractor business under a licensed general contractor shall be filed with the commissioner, in such form as the commissioner may direct.

1. The application shall indicate the name and license number of the licensed general contractor who shall serve as the designee of such business, and, if the business is a partnership or corporation, the names of all other licensed general contractors associated with such business. Upon approval of such application the commissioner shall issue an authorization number to the business. The authorization number shall be included on all applications for permits and any other documents required to be filed with the department.

2. In the case of a partnership or corporation, only one licensed general contractor shall be the designee of such partnership or corporation.

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3. A general contractor business, whether in the form of a corporation, a partnership or a sole proprietorship, may continue to engage in general contractor work only so long as the designee of such business identified on the application for approval of the general contractor business remains an officer, member, or shareholder owning 10% or more of company stock of such corporation, a partner of such partnership or the proprietor of such sole proprietorship, unless the department is notified of the change in the designee as provided in paragraph 4, below.

4. A general contractor business shall not change its name, or business structure without prior notice to the department.

5. A general contractor business shall not change its designee without prior notice to the department. A co-designee or other licensed general contractor may be designated to fulfill the designee's duties and responsibilities on behalf of such general contractor business or city agency, provided that such co-designee or licensed general contractor meets the requirements of item 3 of this section.

6. A general contractor business shall comply with the financial solvency requirements in section 28-418.4.

§28-418.9 Designee for general contractor business or city agency. Each general contractor business or city agency shall authorize one responsible designee who shall apply for permits on behalf of the business, or agency, be licensed pursuant to this article and shall comply with the following:

1. The designee shall have full responsibility over the general contractor work.

2. The designee shall be responsible for exercising supervision of the licensed general contractor business' operations, including any subcontractors retained to carry out permitted work, to ensure compliance with this chapter and the rules of the department.

3. Notify the department if they leave the general contractor business or city agency, or are otherwise no longer the designee. After notification to and acknowledgement by the department, the designated general contractor may relinquish such authority and the general contractor business or city agency may name a new designee in accordance with item 5 of section 28-418.8.

§28-418.9.1 Restriction. A designee for a city agency may not be a designee for any general contractor business at the same time.

§28-418.9.2 Co-designees. A general contractor business or city agency whose designee holds an unlimited general contractor license may have up to five (5) co-designees who also hold an unlimited general contractor license and may supervise the permitted work.

§28-418.10 Status of general contractor registrations and safety registration numbers as of the effective date of this section. General contractor registrations and safety registration numbers that are active as of the effective date of this section shall be automatically converted to a limited general contractor license with the full authority to file permits for the scope of work allowed by such license until the expiration of such registration term. To be converted to an unlimited general contractor license, proof of the experience required by 28-418.7.2 shall be provided in a form and manner determined by the Department. Individuals seeking to renew such limited and unlimited general contractor license shall comply with the qualifications set out in section 28-418.7.

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§28-418.11 Designees as of the effective date of this section. Individuals who hold general contractor registrations as of the effective date of this section will be automatically named the designee for their associated general contractor business or city agency. Businesses with individuals who hold associated safety registration numbers but do not also hold general contractor registrations, must submit the name of their designee to the department in such form and manner as determined by the commissioner. Designees may be changed for a general contractor business or city agency by a written notice to the department.

§28-418.12 Unregistered entities having or applying for permits to perform general contractor work as of the effective date of this section. Individuals, corporations, partnerships or other business entities not required to be registered in accordance with the law in effect prior to the effective date of this section performing general contractor work pursuant to permits issued prior to such effective date must obtain a general contractor license to continue work under such permit after such effective date, unless otherwise exempted. Permits will not be issued with respect to applications for permits for general contractor work filed prior to the effective date of this section, but not yet approved by the department by the effective date of this section, unless the applicant obtains a general contractor license prior to issuance of such permit.

§8. Article 420 of chapter 4 of title 28 of the administrative code of the city of New York is REPEALED.

§9. This local law takes effect three years 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, prior to such effective date.

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