

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2007**

No. 65

Introduced by Council Members Mark-Viverito, the Speaker (Council Member Quinn), Brewer, Comrie, Dickens, Fidler, Gentile, Gerson, James, Liu, Nelson, Recchia Jr., Weprin, Gonzalez, Martinez, Jackson, Garodnick, Gennaro, Katz and Mendez.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the use of explosives for demolition and excavation.

Be it enacted by the Council as follows:

Section 1. Section 27-165 of the administrative code of the city of New York is amended to read as follows:

§27-165 Notice to adjoining owners. No foundation or earthwork permit shall be issued unless and until at least five days prior written notice of the permit application shall have been given by the applicant to the owners of all adjoining lots, buildings and service facilities which may be affected by the proposed foundation work or earthwork operations, *except that any foundation or earthwork that is to be done with the use of explosives shall also be subject to the notice requirements set forth in section 27-4038.1 of this code.*

§2. Section 27-169 of the administrative code of the city of New York is amended to read as follows:

§27-169 Notice to adjoining owners. No demolition or removal permit shall be issued unless and until at least five days prior written notice of the permit application shall have been given by the applicant to the owners of all adjoining lots, buildings and service facilities which may be affected by the proposed demolition or removal work, *except that any demolition or removal work that is to be done with the use of explosives shall also be subject to the notice requirements set forth in section 27-4038.1 of this code.*

§3. Subchapter 4 of title 27 of the administrative code of the city of New York is amended to add a new section, §27-4038.1 to read as follows:

§27-4038.1 Blasting safety. a. Permits. A permit issued pursuant to section 27-4031 for the use of explosives for blasting operations, including excavation and demolition work, shall not be issued for a period of more than nine months. Such permit may be renewed for additional periods of up to nine months, provided that the owner and blasting contractor have complied with the requirements of this section.

b. Blasting plan for demolition blasting. Applications for a permit for use of explosives in connection with demolition work shall include a blasting plan. The blasting plan shall include the following information:

1. The location and dimensions of the safety zone to be maintained during blasting, including clearance to the surrounding buildings, structures and infrastructure.

2. Construction plans detailing the location of the main bearing supports of the structure which will be utilized in the demolition.

3. The types of explosives to be used, quantities, charge weight per initiation, blast sequence and pattern, and number, depth and diameter of drill holes.

c. Notifications and permit survey meeting. Prior to the issuance of any permit for the use of explosives for blasting operations, a permit survey meeting shall be arranged by the owner or the owner's blasting contractor and conducted at the job site at which blasting operations are to occur, for the purpose of reviewing the measures that the blasting contractor will be required to undertake to safeguard affected buildings, structures and infrastructure. Such permit survey meeting shall be attended by representatives of the department, general contractor and blasting contractor. The owner or the owner's blasting contractor shall in addition notify the department of buildings of the meeting, and invite the participation of owners of affected buildings, structures and infrastructure as determined by the department to be appropriate. The commissioner may also require notification of and coordination with other federal, state and city officials and agencies, including the department of environmental protection, office of emergency management, metropolitan transportation authority, United States coast guard and United States army corps of engineers, as appropriate.

d. Pre-blasting survey. Prior to the commencement of blasting operations, the owner or the owner's blasting contractor shall retain the services of a professional engineer licensed in New York State, to conduct a structural survey of all buildings, structures, and infrastructure, including all landmarks and monuments, within one hundred feet of the property line of the job site. The pre-blasting survey shall determine and document the existing structural condition of the interior and exterior of such buildings, structures and infrastructure, provided that, if after reasonable good faith efforts, access to the interior of a building, structure or infrastructure cannot be gained, it shall be sufficient that such survey determine and document the condition of the exterior of such building, structure or infrastructure. The report of such pre-blasting survey shall include photographs and/or videotapes, documenting any pre-existing conditions that may be exacerbated by blasting operations, including cracks and structural defects, and their location, length, size, thickness, and type. Where demolition blasting is to be conducted, the pre-blasting survey report shall identify the location and elevation of vertical control points on such buildings, structures and infrastructure, and shall set forth the type and location of any monitoring devices to be used, including tell-tales. If application is made for renewal of the permit for excavation or demolition blasting at a job site, the owner or the owner's blasting contractor shall cause any pre-blasting survey to be updated as necessary to address any change in conditions in the area to be surveyed.

e. Notice of permit issuance. Within five days of issuance of a permit for the use of explosives for demolition or excavation work, the owner or the owner's blasting contractor shall provide written notice to each council member and community board whose respective districts includes the job site or property within one hundred feet thereof, and the local fire company. Such notice shall contain the effective and expiration dates of the permit. Proof of the delivery or mailing of such notice shall be filed with the department.

f. Notice of the commencement of blasting operations. Not less than two days nor more than five days prior to the commencement of blasting operations, the owner or the owner's blasting contractor shall provide written notice of same to each council member and community boards whose respective districts include the job site or property within one hundred feet thereof, and the local fire company. Such notice shall contain the date or dates on which blasting operations are anticipated to take place and telephone numbers for the blasting contractor and the department to which complaints and inquiries about the

blasting operations may be made. The owner or the owner's blasting contractor shall in addition forward a copy of the written notice to the owners of all buildings within one hundred feet of the job site. Owners of such buildings shall post such notice at a conspicuous location within each such building in a manner prescribed by the department to ensure adequate visibility. If blasting operations continue for a period of more than one month, additional notice shall be given to owners of such buildings and posted by such owners on a monthly basis for any month in which blasting operations are to be conducted.

g. Authorization to deliver explosives. No explosives shall be delivered to any job site without the prior authorization of the Department. The commissioner shall promulgate rules governing the delivery and removal of explosives to and from the job site.

h. Certificate of fitness. Blasting operations or other use of explosives shall be conducted under the personal supervision of a blaster holding a certificate of fitness for blasting operations. The blaster shall be in charge of blasting operations and responsible for ensuring that such operations are conducted in compliance with all applicable laws, rules, regulations, permit conditions and blasting procedures.

i. Blasting patterns for excavation blasting. Prior to the commencement of excavation blasting at a job site, and at such other times as the department may require, the blaster shall review with a department representative the blasting patterns to be utilized in connection with such blasting operations.

j. Vibration and airblast. The owner or the owner's blasting contractor shall retain a seismic services consultant to measure and record ground vibration and airblast overpressure levels at specified locations. Such measurements shall be taken every time explosives are detonated during blasting operations. A copy of such measurements shall be filed with the department on a schedule to be established by the department, but not less frequently than once per week. Throughout blasting operations, locations for the monitoring equipment shall be selected by the blasting contractor and the seismic consultant in consultation with the department and subject to department approval. The commissioner may require monitoring of water shock when submarine blasting is conducted.

k. Blasting in congested areas. When blasting is conducted in a congested area or in close proximity to buildings, structures or infrastructure that may be damaged, or whose use and occupancy may be seriously affected by blasting operations, the blaster shall schedule the timing of each blast and take appropriate precautions in its loading, confinement and initiation, so as to minimize the effect of the blast

upon surrounding uses and occupancies, and to control the ground vibrations and air blast effects.

Shoring or other means approved by the commissioner of buildings shall be used to reinforce buildings, retaining walls and other structures and infrastructure, that are susceptible to damage from vibration and air blast effects, and weak rock shall be manually removed by gads, picks or crowbars, without the use of explosives. When blasting is unavoidable in the vicinity of such buildings, structures and infrastructure, only light face blasts with short lines of resistance and small charges shall be used.

l. Unsafe conditions and complaints. The blasting contractor shall immediately suspend blasting operations and immediately notify the department should any condition arise from blasting operations that involves the structural integrity of a building, structure or infrastructure or that otherwise threatens the safety of the general public. The blasting contractor shall also immediately notify the department of buildings of any condition that involves the structural integrity of a building, structure or infrastructure. Blasting operations shall not resume until authorized by the department. The blasting contractor shall notify the department within twenty-four hours of all other complaints, including complaints of noise and minor damage.

m. Post-blasting survey. When required by this subdivision, a post-blasting survey shall be prepared by a professional engineer, licensed in New York state, retained by the owner or the owner's blasting contractor.

1. Demolition Blasting. Whenever demolition blasting is conducted, such professional engineer shall, upon the completion of the blasting operations at the job site, conduct a structural survey of all of the buildings, structures and infrastructure previously surveyed and submit to the department a report documenting the elevations of the vertical control points and the absence of any observable changes in the pre-existing condition of such buildings, structures and infrastructure, or identifying any changes and the conclusions to be drawn therefrom. Elevations of the control points shall again be measured by such professional engineer at intervals of one and six months after the completion of the demolition work, and a report containing this data, and conclusions to be drawn therefrom, shall be promptly submitted to the department as an addendum to the original post-blasting survey.

2. Excavation Blasting. The commissioner may require the owner or the owner's blasting contractor to retain a professional engineer to conduct a post-blasting survey at any time during or upon

the completion of blasting operations upon a determination that such a survey is necessary or appropriate as a result of ground vibration levels exceeding the reporting level set by the department, or other good cause.

n. Recordkeeping. A copy of the pre-blasting survey, the blasting plan for demolition blasting, the blasting patterns utilized for excavation blasting operations, and the vibration and airblast measurements, required by this section, shall be maintained at the job site until the completion of blasting operations, and, together with any post-blasting survey required by this section, shall thereafter be kept by the owner or the owner's blasting contractor for a period of three years from the completion of blasting operations at the job site. Such records shall be made available for inspection by any representative of the department and the department of buildings.

o. Inter-agency coordination of blasting operations. Within ninety days of the effective date of this bill, the department shall develop and establish a protocol with the department of buildings, and such other agencies as the department determines to be necessary or appropriate, by which notification of blasting operations and reporting of unsafe conditions and complaints is to be coordinated.

§4. This local law shall take effect one hundred twenty days after enactment, except that the fire commissioner and the commissioner of buildings shall take such measures, including the promulgation of rules, as are necessary for the implementation of this local law prior to such effective 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 December 19, 2007 and approved by the Mayor on December 31, 2007.

Michael McSweeney, First Deputy City Clerk
Acting City Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 65 of 2007, Council Int. No. 613-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on December 19, 2007:
45 For, 0 Against, 1 Not Voting
Was signed by the Mayor on December 31, 2007
Was returned to the City Clerk on December 31, 2007.

Jeffrey D. Friedlander, Acting Corporation Counsel.