

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1996**

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**No. 65**

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Introduced by Council Members Spigner and Pagan (by the request of the Mayor).

**A LOCAL LAW**

To amend the New York city charter and the administrative code of the city of New York, in relation to consolidating within the department of buildings certain functions performed by the department of environmental protection and the department of transportation related to the review and approval of construction work.

*Be it enacted by the Council as follows:*

Section 1. Subdivision (5) of section 643 of the New York city charter is amended to read as follows:

(5) (i) all surface and subsurface construction within the curb line, including curb cuts and driveways, the covering thereof and entrances thereto and the issuance of permits in reference thereto, (ii) in conjunction with the issuance of permits for surface and subsurface construction within the curblines, such surface and subsurface construction outside the curblines as shall be expressly delegated to the department in the administrative code and the issuance of permits in relation thereto and, (iii) notwithstanding any inconsistent provision of section fourteen hundred three of this charter, in conjunction with the issuance of a permit for the construction of a building, the commissioner may approve the installation of and issue a permit for the construction of an individual on site private sewage disposal system for the premises. Such permit shall be issued in accordance with standards and specifications prescribed by the commissioner, in consultation with the commissioner of environmental protection, for the installation of individual on site private sewage disposal systems;

§2. Paragraph (1) of subdivision b of section 1403 of such charter, as amended by local law number 50 of 1991, is amended to read as follows:

(1) The commissioner shall have charge and control over the location, construction, alteration, repair, maintenance and operation of all sewers including intercepting sewers and sewage disposal plants, and of all matters in the several boroughs relating to public sewers and drainage, and shall initiate and make all plans for drainage and shall have charge of all public and private sewers in accordance with such plans; and shall have charge of the management, care and maintenance of sewer and drainage systems therein. In addition, the commissioner shall have the authority to supervise and adopt rules regarding private sewage disposal systems, other than community private sewage disposal systems [in residential realty subdivisions], and to prescribe civil penalties for the violation of such rules of no more than ten thousand dollars per violation, and, *except as otherwise*

*provided in section six hundred forty three of this charter, to issue permits pursuant to such rules for the construction and maintenance of such private sewage disposal systems. With regard to community private sewage disposal systems [in residential realty subdivisions], the commissioner shall have the authority to perform inspections, and to issue notices of violation for violations of any provision of the New York city health code relating to private sewage disposal, which shall be served and returnable as provided by law for violations of the New York city health code, and the power to perform such other duties with regard to the supervision and regulation of such systems as may be lawfully delegated to him or her by the board of health or department of health.*

§3. Section 24-509 of the administrative code of the city of New York is amended to read as follows:

§24-509 Construction of sewers. a. The commissioner of environmental protection shall prescribe the manner of [piercing or] opening sewers or drains and the form, size and material of which the connections therewith shall be composed.

b. It shall be unlawful to make a connection with any sewer or drain without the written permit of the commissioner of environmental protection, *except that, in conjunction with the issuance of a permit for the construction or alteration of a structure within the curblin, the commissioner of buildings may issue a permit for connection with a sewer or drain.* Such connection shall be in the manner prescribed by [such] the commissioner of environmental protection. [He or she may] *The commissioner issuing the permit shall* require an applicant for such permit to demonstrate to his or her satisfaction that the proposed discharges to the sewer will be in compliance with section 24-523 of this chapter and the regulations promulgated pursuant to such section. For such purpose the commissioner [of environmental protection] *issuing the permit* may require the submission of plans, specifications and such other information as he or she may reasonably require.

c. *When public sewers are made available, the individual on site private sewage disposal system or any other means of sewage disposal or discharge shall be abandoned in a manner prescribed by the commissioner of buildings. The building house sewer shall be connected to the available public sewer within six months of the date of notification that the sewer has been accepted to receive flow. As used in this subdivision the term "individual on site private sewage disposal system" shall mean a system of interconnected structures, units, pipes and devices, including a septic tank and an absorption area, which does not connect to the city sewer system, and which is used to collect, convey, treat and dispose water-flushed or water-carried domestic or commercial sewage on one tax lot.*

d. *Any person who violates subdivision c of this section, or any order issued by or rule promulgated by the commissioner pursuant thereto, shall be liable for a civil penalty in an amount not greater than five thousand dollars for each violation, which may be recovered in a proceeding before the environmental control board. A proceeding to recover any civil penalty authorized pursuant to this section shall be commenced by the service of a notice of violation returnable before the environmental control board, which shall have the power to impose the civil penalties prescribed herein.*

§4. The first unnumbered paragraph of subdivision 2 of section 27-139 of such code is amended to read as follows:

*In the event that [a public sewer system is not available] a private sewage treatment plant is proposed, evidence of submission of plans for approval of [a private sewage treatment] such plant to the department of environmental protection [administration] and the department of health [services administration, or an approved site and subsoil evaluation from the health services administration] as required by law.*

§5. Paragraph (4) of subdivision (c) of section 27-157 of such code is amended to read as follows:

(4) In the event a public sewer system is not available, alternate provisions for disposal of storm water and sanitary sewage. If private sewers are to be constructed pursuant to subdivision b of section fourteen hundred three of the New York city charter, a copy of the sewer plan [shall be submitted]. If a private sewage treatment plant is to be constructed, a copy of plans of the plant approved by the department of health and the department of environmental protection [shall be submitted]. If an individual *on site private* sewage disposal system is to be installed, [the approved] a site and subsoil evaluation [by the department of health] *indicating that the site and subsoil conditions comply with the applicable law and rules* [shall be submitted to the department].

§6. The opening paragraph of subdivision (a) of section 27-160 of such code, as amended by local law number 103 of 1989, is amended to read as follows:

An applicant for a [new building permit or for a permit to construct a substantial horizontal enlargement as defined in subdivision (a) of section P110.2 of reference standard RS-16] *permit who, pursuant to section 24-526 of the administrative code, is required to construct or repair defects in catch basins or sewers which lie outside of the property* shall submit to the department certification from the department of environmental protection that the *applicant or owner* [of property on which such new building or enlargement shall be located] has provided such department with:

§7. Section 27-204 of such code is amended to read as follows:

§27-204 Builder's pavement. a. Every permit issued for the [erection] *construction or alteration* of any building [, structure or open parking lot] shall contain a statement that no certificate of occupancy *or letter of completion* shall be issued with respect to such building [, structure or open parking lot] unless the sidewalk in front of or abutting such building, [structure or open parking lot] including but not limited to the intersection quadrant for corner property, shall have been installed and paved *or repaired* by the owner at his or her own cost, in the manner, of the materials, and in accordance with the *standard specifications* prescribed by the department of transportation *pursuant to sections 19-113 and 19-115 of the code* except where the commissioner [of transportation] has determined that such sidewalk is not required [and has so certified], unless the owner of such premises [has furnished] *furnishes* to the department [of transportation] *prior to the issuance of a certificate of occupancy or letter of completion* security satisfactory to [such] *the* department that the sidewalk will be installed and paved *or repaired* within the time specified by [such] *the* department. Nothing contained in this subdivision shall impair or diminish the power of the commissioner to waive the requirements of this subdivision if he or she shall determine that conditions do not require the constructed of such sidewalks nor affect the obligations of an owner of property specified under subdivision (a) of section 19-152 of the code, or relieve such owner of any such obligations, or impair or diminish the rights of the city or its agencies to enforce such obligations.

b. No permit shall be granted for the [erection] *construction or alteration* of any building [, structure or open parking lot], unless the owner of such premises has furnished to the department [of transportation] a policy of liability insurance, marked paid, in such amounts as may be fixed by [such] *the* department. Such policy shall insure, indemnify and save the city harmless from all claims, suits, demands, causes of action and judgments by reason of personal injuries, including death, sustained by any person and from any claims, suits, demands, causes of action and judgments for damages to property, occurring on any sidewalk on, abutting or in front of such premises, including but not limited to the intersection quadrant for corner property, up to the date of issuance of such certificate of occupancy *or letter of completion* or up to the date on the completion of the

installation and pavement of such sidewalk in accordance with the *standard* specifications and regulations [of] *prescribed by the commissioner of the department of transportation pursuant to sections 19-113 and 19-115 of the code*, whichever is later. In the event that the owner of the premises is covered by a policy of liability insurance, the department [of transportation] may accept a certificate of endorsement extending such policy to include the city within the policy's coverage.

§8. Subdivision b of section 27-214 of such code is amended to read as follows:

b. (1) No certificate of occupancy *or letter of completion* shall be issued for any building, [structure or open parking lot] completed on or after April twenty-third, nineteen hundred sixty-three unless the sidewalk in front of or abutting such building [, structure or open lot], including but not limited to the intersection quadrant for corner property shall have been installed and paved *or repaired* by the owner at his or her own cost, in the manner, of the materials, and in accordance with the specifications prescribed by the department of transportation *pursuant to sections 19-113 and 19-115 of the code*, or unless the owner of such premises has furnished to [such] *the department* security satisfactory to it that such sidewalk will be installed and paved or repaired within the time specified by [such] *the department* or unless the commissioner waives such requirement where conditions do not require the installation of a sidewalk.

(2) *The commissioner of buildings shall insure that streets are suitably improved in accordance with the standards and specifications of the department of transportation as required by subdivision two of section thirty-six of the general city law and shall otherwise carry out the provisions of such subdivision.*

§9. Section 27-219 of such code, as amended by local law number 103 of 1989, is amended to read as follows:

§27-219 Applications for certificates of occupancy. All applications for certificates of occupancy shall be submitted on forms furnished by the department. Each application shall be accompanied by an accurate and complete lot survey made by a licensed surveyor showing the location of any new building and/or any extension to an existing building, the elevation of the first tier of beams or the first floor, the finished grades of all open spaces on the lot, the location and controlling grades of watercourses, paved swales and similar above-grade methods of storm water disposal when permitted by this code, the locations of all catch basins on the property, the established curb level, and the location of all other structures and impervious surfaces, as defined in subdivision (a) of section P110.2 of reference standard RS-16, on the lot. Such lot survey shall also show the location and boundaries of the lot or plot upon which such buildings and structures are located. The commissioner may waive the requirement of such survey in the case of small sheds, stands, signs, and similar small structures. In addition, [the applicant for a ] *prior to the issuance of a certificate of occupancy* [shall submit to the department certifications by the department of environmental protection and the department of transportation] *the department shall confirm by inspection* that all work relating to the installation of the part of the storm water drainage system [for property ] which shall lie outside of such property, if and as required by section 24-526 of this code, has been satisfactorily completed.

§10. Subdivision (e) of section 27-901 of such code is amended to read as follows:

(e) Connection to public water supply systems and to sanitary or combined sewer systems.

(1) GENERAL. a. The water distribution system and system for conveying sewage from any building in which plumbing fixtures are installed shall be connected, respectively, to a public water main and a sanitary or combined sewer if either or both are available and, regarding the sewer, if the department [of environmental protection]

determines that connection thereto is feasible. [Such] *The* department shall determine that connection is feasible if [it finds that]:

1. the sewer is of adequate capacity to receive all sewage flowing from the building;
2. the sewer is in adequate physical condition to receive such sewage;
3. no physical obstacles exist, between the boundaries of the lot or tract of land on which the building is located and the sewer, which would make connection to the sewer impracticable;
4. the elevation of the sewer in relation to the lot or tract of land on which the building is located is such that conveyance of the sewage from the building to the sewer is not impracticable;
5. the sewer is located in the same drainage area as all or most of the lot or tract of land on which the building is located; and
6. no other factor reasonably related to the conveyance of sewage from the building to the sewer would make such connection impracticable or undesirable as a proper means of sewage disposal.

b. Where a public water main is not available, an individual potable water supply shall be provided, and where neither a sanitary nor a combined sewer is available to which the department [of environmental protection] determines that connection is feasible, a private sewer or private sewage disposal system shall be provided. All such private systems shall be provided subject to the approval of the commissioner and of any other agency or agencies having jurisdiction, and constructed in accordance with the requirements of reference standard RS-16 *and, with respect to the construction of individual on site private sewage disposal systems, in accordance with the specifications and standards prescribed by the commissioner, in consultation with the commissioner of environmental protection, pursuant to section six hundred forty three of the charter.*

c. Extensions of public sewers and water mains shall be made in accordance with the regulations of the department of environmental protection.

(2) SYSTEMS AVAILABLE. a. A public water main, and a sanitary or combined sewer for the purpose of conveying sewage, shall be deemed available to a building in which plumbing fixtures are installed, except to a one- or two-family dwelling, if a property line of such building is within five hundred feet (measured along a street, alley, or right-of-way) of the public water supply system or the sewer. The connection shall be made in accordance with the [requirements] *applicable standards* of the department of environmental protection.

b. A public water supply system, and a sanitary or combined sewer for the purpose of conveying sewage, shall be deemed available to a one- and two-family dwelling if a property line of such dwelling is within one hundred feet (measured along a street, alley, or right-of-way) of the public water supply system or the sewer. The connection shall be made in accordance with the [requirements] *applicable standards* of the department of environmental protection.

c. Where two or more one- or two-family dwellings are to be constructed on a tract of land, or where a substantial improvement of any other type of building or buildings is contemplated on a tract of land, the public water supply system and/or the sanitary or combined sewer may be declared available thereto by the agencies having jurisdiction thereon even though the distances specified in subparagraphs a and b of this paragraph are exceeded.

§11. Section 27-909 of such code is amended to read as follows:

§27-909 Permits. In addition to the [building permit or plumbing permit] *permits* required under provisions of subchapter one of this chapter, the following permits shall also be required.

(a) Permits for the installation of the building house sewer from the street line to, and including, the spur connection at the street sewer shall be obtained from the department of environmental protection [whenever the street sewer or disposal system is under their jurisdiction], *except that, in conjunction with the issuance of a permit for the construction or alteration of a structure within the curblin, the commissioner may issue a permit for connection with a sewer or drain.*

(b) Permits for sidewalk and street openings shall be obtained from the department of transportation.

§12. Section 27-910 of such code is amended to read as follows:

§27-910 (a) Where public sewers are deemed not available according to subdivision (e) of section 27-901 of article one of this subchapter, [a] *an individual on site* private sewage disposal system shall be installed in accordance with the requirements of this subchapter. When public sewers are made available, the individual *on site private* sewage disposal system shall be abandoned in a manner prescribed by the commissioner, and the building house sewer shall be connected to the available public sewer within [one year] *six months* of the date of [acceptance of the available public sewer] *notification that the sewer has been accepted to receive flow* by the agency or agencies having jurisdiction.

§13. Subdivision (c) of section P108.2 of reference standard RS-16 of such code is amended to read as follows:

(c) All building house sewer connections shall be made in the presence of [a representative] *an employee* of the department [of public works].

§14. Subdivision (b) and the opening paragraph of subdivision (c) of section P110.2 of reference standard RS-16 of such code are amended to read as follows:

(b) Disposal of storm water when public sewers are located in front of the property. Where any new building or other substantial horizontal enlargement is to be constructed on a lot and the [commissioner of environmental protection] *department* determines that a public street storm sewer or public street combined sewer is located directly in front of any point of any boundary of such lot and that it would be feasible, pursuant to subdivision (j) of this section, to discharge storm water from such lot into such street storm sewer or street combined sewer, the owner of such lot shall ensure that all storm water falling or coming to rest on all impervious surfaces within such lot will be discharged to such street storm sewer or street combined sewer. Such discharge shall be by means of building storm sewers or building combined sewers, provided that no sewage shall be discharged into a public street storm sewer. If the [commissioner of environmental protection] *department* determines that such street storm sewer or street combined sewer has partial capacity to receive the storm water discharged from such lot, the remainder of such storm water shall be discharged pursuant to subdivision (c) of this section.

(c) Disposal of storm water when public sewers are not located in front of the property. -- Where any new building or other substantial horizontal enlargement is to be constructed on a property and the [commissioner of environmental protection] *department* determines that no public street storm sewer or public street combined sewer is located directly in front of any point of any boundary of such property, the owner of such property shall ensure that all water falling or coming to rest on all impervious surfaces within such property will be discharged as follows:

§15. Sections P113.1 and P113.9 of reference standard RS-16 of such code are amended to read as follows:

P113.1 Information Required. An applicant desiring to construct an individual *on site private* sewage disposal system shall file a statement [on all forms supplied by the environmental protection administration, ] *certified by a registered architect or licensed*

*professional engineer that there is no available sewer to which the property in question may connect and the distance to the nearest public sewer [, and submit an approved] . In addition, such construction shall be subject to a site and subsoil evaluation [by the health services administration] to be performed under the supervision of an employee of the department.*

P113.9 Soil Percolation Tests. Soil percolation tests shall be performed at the site of a proposed individual *on site private* sewage disposal system installation to determine the suitability of the soil and site. Such test shall be performed under the supervision of [a representative] *an employee* of the [Health Services Administration] *department* as well as subject to controlled inspection. The result of the percolation tests shall be filed [with the department] on forms provided by the [health services administration] *department*, stating the suitability of the site and the capacity of the subsoil for the proposed use.

§16. Any agency or officer to which is assigned by this local law any functions, powers and duties shall exercise such functions, powers and duties in continuation of their exercise by the agency or officer by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter commenced by the agency or officer by which such functions, powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject matter of such functions, powers or duties, and applicable to the agency or officer formerly exercising the same shall, so far as not inconsistent with the provisions of this local law, apply to the agency or officer to which such functions, powers and duties are assigned by this local law.

§17. Any rule in force on the effective date of this local law, promulgated by an agency or officer whose power to promulgate such rule is assigned by this local law to some other agency or officer shall continue in force as the rule of the agency or officer, to whom such power is assigned, and such agency or officer may hereafter duly amend, supersede, or repeal such rule.

§18. No existing right or remedy of any character shall be lost, impaired or affected by reason of the adoption of this local law.

§19. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or any agency or officer, shall be affected or abated by the adoption of this local law or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may by this local law be assigned or transferred to another agency or officer, but in that event the same may be prosecuted or defended by the head of the agency or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§20. Whenever by any provision of this local law functions, powers or duties are assigned to any agency or officer which have been heretofore exercised by any other agency or officer, officers and employees in the classified city civil service who at the time that this local law shall take effect are engaged in the performance of such function, powers or duties shall be transferred to the agency to which such functions, powers or duties are assigned by this local law, without examination and without affecting existing compensation or pension or retirement rights, privileges or obligations of such officers and employees.

§21. Nothing contained in this local law shall affect or impair the rights or privileges of officers or employees of the city or of any agency existing at the time when this local law shall take effect, or any provision of law in force at the time when this local law shall take effect and not inconsistent with the provisions of this local law in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension

and retirement plans rights and any other rights or privileges of officers or employees of the city generally or officers of any agency.

§22. This local law shall take effect ninety days after the date of its enactment into law. The departments of buildings, environmental protection and transportation may, on or after the date of enactment of this local law, promulgate rules or take any other administrative actions necessary for the 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 June 25, 1996, and approved by the Mayor on July 12, 1996.

CARLOS CUEVAS, City Clerk, 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 1996, Council Int. No. 791-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 25, 1996: 42 for, 6 against.

Was approved by the Mayor on July 12, 1996.

Was returned to the City Clerk on July 15, 1996.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel