

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2017**

No. 81

Introduced by Council Members Williams, Torres, Crowley, Salamanca, Rosenthal, Rose, Reynoso, Levin, Espinal, Cornegy, Richards, Menchaca, Chin, Dromm, Kallos and Barron.

A LOCAL LAW

To amend the New York city building code, in relation to requiring construction superintendents at certain construction sites

Be it enacted by the Council as follows:

Section 1. Section 28-105.12.8 of article 105 of chapter 1 of title 28 of the administrative code of the city of New York is amended to read as follows:

§ 28-105.12.8. Site safety plan. Where *a site safety plan is* required by this code or by the department, [applications shall include a site safety plan approved in accordance with the New York city building code. A]all work shall adhere to the site safety plan. *Site safety plans shall require approval of the department where specified in this code or the New York city building code.*

§2. Section 3301.3 of the New York city building code is amended to read as follows:

3301.3 Site safety managers, coordinators and superintendent of construction. A site safety manager or site safety coordinator must be designated and present at the construction or demolition of a major building in accordance with Section 3310. A superintendent of construction is required for the construction or demolition of such other buildings as identified [pursuant to rules promulgated by the commissioner] *in Section 3301.13.3.*

§3. Section BC 3301 of the New York city building code is amended by adding a new section 3301.13 to read as follows:

3301.13 Scope. *This section sets forth requirements for construction superintendents at certain construction or demolition sites.*

3301.13.1 Site safety plan. *For jobs that require the designation of a primary construction superintendent pursuant to Section 3301.13.3, a site safety plan that meets the applicable requirements of Article 110 of Chapter 1 of Title 28 of the Administrative Code shall be kept on site and made available to the department upon request.*

3301.13.2 Definitions. *For the purposes of this section, the following terms shall have the following meanings:*

Approved documents. For the purpose of this section, approved documents include construction documents as defined by this code, and any and all documents that set forth the location and entire nature and extent of the work proposed with sufficient clarity and detail to show that the proposed work conforms to the provisions of this code and other applicable laws and rules. In addition to construction documents, such documents include, but are not limited to, shop drawings, specifications, manufacturer's instructions and standards that have been accepted by the design professional of record or such other design professional retained by the owner for this purpose.

Construction superintendent. An individual registered with the department and responsible for all duties as defined in this section.

Job. A design and construction/demolition undertaking consisting of work at one building or structure, as well as related site improvements and work on accessory structures. A job may consist of one or more plan/work applications, and may result in the issuance of one or more permits.

Permit holder. The individual who receives the primary department-issued permit for the job.

3301.13.3 Designation of primary construction superintendent. *The permit holder shall designate a primary construction superintendent, prior to the commencement of work, in a form and manner acceptable to the department, for the following types of jobs:*

- 1. The construction of a new building;*
- 2. The full demolition of an existing building;*
- 3. An alteration to an existing building that involves one or more of the following:*
 - 3.1 A vertical enlargement;*
 - 3.2 A horizontal enlargement;*

- 3.3 *The alteration or demolition of more than 50 percent of the floor area of the building during the course of work over any 12 month period;*
- 3.4 *The removal of one or more floors during the course of work over any 12 month period;*
- 3.5 *Work that requires a special inspection for underpinning; or*
- 3.6 *Work that requires a special inspection for the protection of sides of excavations; or*
- 4. *Other jobs that pose an enhanced risk to the public and property, as determined by the commissioner.*

Exceptions: *Notwithstanding the above, a construction superintendent is not required for:*

- 1. *Work listed in Section 3310.1, for which a site safety manager or coordinator must be designated.*
- 2. *Work which solely involves the construction of a new 1-, 2-, or 3-family building.*

3301.13.4 Change of designation. *The permit holder must immediately notify the department, in a form and manner acceptable to the department, of any permanent change to the primary construction superintendent.*

3301.13.5 Alternate construction superintendent. *In the event the primary construction superintendent is temporarily unable to perform their duties, an alternate construction superintendent, designated by the permit holder and acceptable to and acting on behalf of the primary construction superintendent, must fulfill the duties of the primary construction superintendent. In the event that an alternate construction superintendent will be acting in place of the primary construction superintendent for a period longer than two consecutive weeks, the permit holder must notify the department, in a form and manner acceptable to the department, of such change.*

3301.13.6 Limitations on the designation of primary or alternate construction superintendents. *An individual may only be designated as a primary or alternate construction superintendent for that number of jobs for which he or she can adequately perform all required duties. No individual may be designated as the primary construction superintendent on more than ten jobs.*

3301.13.7 Duties of construction superintendents. *The duties of a construction superintendent shall include:*

1. *Acting in a reasonable and responsible manner to maintain a safe job site and assure compliance with this chapter and any rules promulgated thereunder at each job site for which the construction superintendent is responsible;*
2. *To the extent that a registered design professional or special inspection agency is not responsible, the construction superintendent must assure compliance with the approved documents at each job site for which the construction superintendent is responsible;*
3. *Fulfilling the duties of a superintendent of construction assigned by Chapter 1 of Title 28 of the Administrative Code at each job site for which the construction superintendent is responsible; and*
4. *Visiting each job site for which the construction superintendent is responsible each day when active work is occurring.*

Exception: *The construction superintendent is not required to be present at the site during the following activities, provided no other work is in progress:*

1. *Surveying that does not involve the disturbance of material, structure, or earth;*
2. *Use of a hoist to transport personnel only;*
3. *Use of a material hoist that is fully enclosed within the perimeter of the building;*
4. *Finish trowelling of concrete floors;*
5. *When personnel are provided for temporary heat, light, or water; or*
6. *Truck deliveries to the site where the sidewalk is closed and the entrance gate is within that closed sidewalk area.*

3301.13.8 Inspection. *Each time the construction superintendent visits a job site for which he or she is responsible, the construction superintendent must inspect all areas and floors where construction or demolition work, and ancillary activity, is occurring, and:*

1. *Verify work is being conducted in accordance with sound construction/demolition practices;*
2. *Verify compliance with the approved documents; and*
3. *Verify compliance with this section and any rules promulgated thereunder.*

3301.13.9 Correcting unsafe conditions. *In the event the construction superintendent discovers work at a job site for which he or she is responsible that is not being conducted in accordance with sound construction/demolition practices, not in compliance with approved documents, or not in compliance with this section and any rules promulgated thereunder, the construction superintendent must immediately notify the person or persons responsible for creating the unsafe condition, order the person or persons to correct the unsafe condition, and take all appropriate action to ensure the unsafe condition is corrected. Where an unsafe condition relates to an item which a registered design professional or special inspection agency is responsible for implementing or verifying, the construction superintendent must also notify the responsible registered design professional or special inspection agency of the unsafe condition. All such unsafe conditions, notices, orders, and corrective work must be recorded in the log required by Section 3301.13.13.*

3301.13.10 Notification of conditions to the department. *The construction superintendent must immediately notify the department, in a form and manner acceptable to the department, when he or she discovers, at any job site for which the construction superintendent is responsible, any of the conditions listed in Section 3310.8.2.1. Notification to the department does not relieve the construction superintendent of their obligations under Section 3301.13.9.*

3301.13.11 Reporting of accidents and damage to adjoining property. *The construction superintendent must immediately notify the department, in a form and manner acceptable to the department, of any accident at any job site for which the construction superintendent is responsible, or any damage to adjoining property caused by construction or demolition activity at the job site.*

3301.13.12 Competent person. *The construction superintendent must designate a competent person for each job site for which the construction superintendent is responsible and ensure such competent person is present at the designated job site at all times active work occurs. The designation of a competent person does not alter or diminish any obligation imposed upon the construction superintendent. The competent person must carry out orders issued by the construction superintendent; be able to identify unsanitary, hazardous or dangerous conditions; take prompt corrective measures to eliminate such conditions; immediately report to the construction superintendent accidents at the job site or any damage to adjoining property caused by construction or demolition activity at the job site; and be able to effectively communicate workplace instructions and safety directions to all workers at the site.*

3301.13.13 Log. *The construction superintendent must maintain a log at each job site for which the construction superintendent is responsible. Such log must be made available to the commissioner upon request. The construction superintendent must complete such log prior to departing the job site and shall sign and date each day's log entry. Such log must be organized and recorded in a form and manner acceptable to the department. Such log must contain, at a minimum, the following information:*

1. *The presence of the construction superintendent at the job site as evidenced by their printed name and signature and a notation indicating the times of arrival at, and departure from the site, which must be recorded immediately after arriving at the site and immediately prior to leaving the site, respectively;*
2. *The general progress of work at the site, including a summary of that day's work activity;*
3. *The construction superintendent's activities at the site, including areas and floors inspected;*
4. *Any unsafe condition(s) observed pursuant to Section 3301.13.9, and the time and location of such unsafe condition(s);*
5. *Orders and notice given by the construction superintendent pursuant to Section 3301.13.9, including the names of individuals issued orders or notices, any refusals to comply with orders or respond to notices given, follow up action taken by the construction superintendent, and where the condition giving rise to the order or notice is corrected, the nature of the correction;*
6. *Any violations, stop work orders, or summonses issued by the department, including date issued and date listed or dismissed;*
7. *Any accidents; and*
8. *The name of the competent person designated in accordance with Section 3301.13.12, along with an accompanying signature of the competent person. If the construction superintendent assigns a new competent person, the date and time of this change, along with the name of the new competent person, must be recorded, accompanied by the signature of the new competent person. If the construction superintendent is not at the site when this occurs, the new competent person must instead make the log entry, which the construction superintendent must sign and date upon his or her next visit to the job site.*

3301.13.14 Disciplinary actions. *Construction superintendents are subject to the provisions of Section 28-401.19 of the Administrative Code.*

3301.13.15 Cooperation required. *Construction superintendents must comply with the provisions of Section 28-401.20 of the Administrative Code.*

3301.13.16 Obligation of others. *Nothing in this rule is intended to alter or diminish any obligation otherwise imposed by law on others, including but not limited to, the owner, permit holder, construction manager, general contractor, contractor, materialman, architect, engineer, land surveyor, or other party involved in a construction project to engage in sound*

engineering, design, and construction practices, and to act in a reasonable and responsible manner to maintain a safe job site.

3301.13.17 Registration and qualifications of construction superintendents. *Construction superintendents shall register with the department, in a form and manner acceptable to the department, and shall meet any qualifications set forth in rules by the department.*

§ 4. This local law shall take effect 180 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before 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 April 25, 2017 and approved by the Mayor on May 10, 2017.

ALISA FUENTES, Acting City Clerk, Acting Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 81 of 2017, Council Int. No. 1448-A of 2017) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.