



Legislation Details (With Text)

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Title: A Local Law to amend the New York city building code, in relation to construction superintendents, and repealing sections 3310.8.3 and 3310.8.6 of the New York city building code in relation to inspections required by site safety managers or coordinators, and in relation to reasonable prudence required by site safety managers or coordinators to ensure safety

Sponsors: Francisco P. Moya, Margaret S. Chin, (by request of the Mayor)

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Attachments: 1. Summary of Int. No. 2276, 2. Int. No. 2276, 3. April 22, 2021 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 4-22-21, 5. Minutes of the Stated Meeting - April 22, 2021, 6. Committee Report 9/13/21, 7. Hearing Testimony 9/13/21, 8. Hearing Transcript 9/13/21

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Int. No. 2276

By Council Members Moya and Chin (by request of the Mayor)

A Local Law to amend the New York city building code, in relation to construction superintendents, and repealing sections 3310.8.3 and 3310.8.6 of the New York city building code in relation to inspections required by site safety managers or coordinators, and in relation to reasonable prudence required by site safety managers or coordinators to ensure safety

Be it enacted by the Council as follows:

Section 1. Section 3301.13.1 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

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. Prior to the commencement of work, the permit holder must submit a statement to the department attesting that the site safety plan meets the requirements of Article 110 of Chapter 1 of Title 28 of the *Administrative Code* and coordinates with the scope of work intended.

Exception: For a major building subject to the provisions of Section 3310, the site safety plan requirements of Section 3310.3 shall apply.

§ 2. The definition of “approved documents” in section 3301.13.2 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

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, site safety plans, tenant or occupant protection plans, 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.

§ 3. Section 3301.13.3 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

3301.13.3 Designation of primary construction superintendent. The permit holder shall designate a primary construction superintendent, who shall carry out all duties and responsibilities assigned to the construction superintendent by this chapter and rules promulgated by the commissioner, and notify the department of such designation 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.]

Exception: A construction superintendent is not required for work that solely involves a 1-, 2-, or 3-family building, or an accessory use to such building, provided the permit holder for such work is registered as a general contractor in accordance with Article 418 of Chapter 4 of Title 28 of the *Administrative Code*.

§ 4. Section 3301.13.6 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

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.

Exceptions:

1. If one of the jobs for which the construction superintendent is designated as a primary construction superintendent is on a building that meets the definition of a major building, the individual may only be designated as the primary construction superintendent for that job and may not serve as the primary construction superintendent for any other job.
2. Notwithstanding exception number 1, beginning on January 1, 2022, no individual may be designated as the primary construction superintendent for more than five jobs.
3. Notwithstanding exception number 1, beginning on January 1, 2024, no individual may be designated as the primary construction superintendent for more than three jobs.
4. Notwithstanding exception number 1, beginning on January 1, 2026, no individual may be designated as the primary construction superintendent for more than one job.
5. A construction superintendent designated as the primary construction superintendent at a job site may serve as a non-primary construction superintendent at another job site, provided there is no work requiring the presence of such individual occurring at the job site for which the individual has been designated as the primary construction superintendent.
6. Subject to the approval of the commissioner, a construction superintendent may serve as the primary construction superintendent for multiple non-major building jobs located on the same lot or on contiguous lots.

§ 5. Section 3301.13.7 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

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] ensure 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] ensure 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[.]; or, beginning January 1, 2026, where Section 3301.13.6 requires the construction superintendent to be dedicated to one job, being present at the job site for which the construction superintendent is responsible during all times 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.

§ 6. Section 3301.13.8 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

3301.13.8 Inspection by the construction superintendent. 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] chapter and any rules promulgated thereunder.

Exception: Where a site safety manager or coordinator has been designated for the job in accordance with Section 3310, the construction superintendent does not need to perform the inspections required by this section. Site safety inspections shall be performed by the site safety manager or coordinator in accordance with Section 3310.

§ 7. Section 3301.13.9 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

3301.13.9 Correcting unsafe conditions. In the event the construction superintendent discovers work or

conditions at a job site for which he or she is responsible that [is] are not being conducted in accordance with sound construction/demolition practices, not in compliance with approved documents, or not in compliance with this [section] chapter and any rules promulgated thereunder, the construction superintendent must take all appropriate action to correct the unsafe work or condition, including but not limited to immediately [notify] notifying the person or persons responsible for creating the unsafe work or condition, [order] and ordering the person or persons to correct the unsafe work or condition, to cease operations, or to leave the job site. [and take all appropriate action to ensure the unsafe condition is corrected.] Where [an] unsafe work or a 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 work or condition. All such unsafe conditions, work, notices, orders, and corrective [work] action must be recorded in the log required by Section 3301.13.13.

§ 8. Section 3301.13.10 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

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.

Exception: Where a site safety manager or coordinator has been designated for the job in accordance with Section 3310, the construction superintendent does not need to provide the notification required by this section. Notifications shall be made by the site safety manager or coordinator in accordance with Section 3310.

§ 9. Section 3301.13.11 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

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.

Exception: Where a site safety manager or coordinator has been designated for the job in accordance with Section 3310, the construction superintendent does not need to provide the notification required by this section. Notifications shall be made by the site safety manager or coordinator in accordance with Section 3310.

§ 10. Section 3301.13.12 of chapter 33 of the New York city building code, as added by local law number 81 for the year 2017, is amended to read as follows:

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.

Exception: Beginning January 1, 2026, where Section 3301.13.6 requires the construction superintendent to be dedicated to one job, the designation of a competent person is not authorized. In the event the primary construction superintendent cannot be present at the job site while active work is occurring, an alternate construction superintendent shall act on behalf of the primary construction superintendent in accordance with Section 3301.13.5.

§ 11. Section 3301.13.13 of chapter 33 of the New York city building code, as added by local law

number 81 for the year 2017, is amended to read as follows:

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.], or, where the job occurs on a building that meets the definition of a major building, by the end of the day. [Such log must be organized and recorded in a form and manner acceptable to the department.] Each day's log entry must be signed and dated by the construction superintendent. 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 job site, including a summary of that day's work activity;
3. The construction superintendent's activities at the job 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 or damage to adjoining property caused by construction or demolition activity at the job site; [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 job 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[-];

9. All construction superintendent personnel changes, accompanied by the signature of the new construction superintendent. Construction superintendent personnel changes include, but are not limited to: a change to the primary construction superintendent; an alternate construction superintendent acting in the place of the primary construction superintendent; or a new alternate construction superintendent taking over for the previous alternate construction superintendent; and
10. A record of the weekly safety meeting required by Section 3301.13.18, including date and time of meeting, summary of issues discussed, and the names and affiliation of those who attended.

§ 12. Section 3301.13.16 of chapter 33 of the New York city building code, as added by local law

number 81 for the year 2017, is amended to read as follows:

3301.13.16 Obligation of others. Nothing in this [rule] section 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, site safety manager, site safety coordinator, concrete safety manager, 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.

§ 13. Section BC 3301.13 of chapter 33 of the New York city building code is amended by adding a new section 3301.13.18 to read as follows:

3301.13.18 Weekly safety meeting. The construction superintendent shall, for each job site for which the construction superintendent is responsible, lead a safety meeting with the designated representative of the general contractor, construction manager, and each subcontractor to ascertain that all contractors and subcontractors are complying with the applicable provisions of this chapter, the site safety plan, and the tenant or occupant protection plan. Where a site safety manager or coordinator has been designated for the job in accordance with Section 3310, the site safety manager or coordinator shall also attend the meeting. Such meeting shall occur at least once a week while active work is occurring.

§ 14. Section 3310.5 of chapter 33 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

3310.5 Site safety manager or coordinator to be designated. [One or more] A primary site safety [managers] manager shall be designated[, as necessary, to ensure compliance with the site safety plan and all site safety requirements as specified in this chapter. Such site safety manager or managers shall be designated] by the owner, agent, construction manager, or general contractor. [All] Where more than one site safety manager is to serve at the site, all such entities shall agree to designate one such site safety manager as the primary site safety manager, or where there is only one site safety manager, such manager shall automatically be designated as the primary site safety manager. [Such] The primary site safety [manager(s)] manager shall carry out all duties and responsibilities assigned to the site safety manager or coordinator by this chapter and rules promulgated by the commissioner, and shall be certified by the department in accordance with Article 402 of Chapter 4 of Title 28 of the Administrative Code.

Exception: [One or more] A site safety [coordinators] coordinator, certified by the department in

accordance with the requirements of Article 403 of Chapter 4 of Title 28 of the *Administrative Code*, may be designated in lieu of a site safety manager for the construction, vertical or horizontal enlargement, or full or partial demolition of a major building, provided such building:

1. Is less than 15 stories or 200 feet (60 960 mm) in height; and
2. Has a building footprint of 100,000 square feet (30 480 m²) or less.

§ 15. Section 3310.8 of chapter 33 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

3310.8 Site safety manager's and coordinator's duties. The site safety manager or coordinator shall monitor compliance with the site safety plan, the tenant or occupant protection plan, and the [safety] requirements of this chapter and any rules promulgated thereunder by performing the duties required by Sections 3310.8.1 through 3310.8.6 and by performing all other safety duties assigned by the owner or general contractor to meet legal requirements.

§ 16. Section 3310.8.1 of chapter 33 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

3310.8.1 Meetings. [The site safety manager or coordinator shall, at a minimum, meet on a weekly basis with the designated representative of each subcontractor to ascertain that all subcontractors are complying with the applicable provisions of this chapter.] The requirements of Section 3301.13.18 shall apply.

§ 17. Section 3310.8.2 of chapter 33 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

3310.8.2 Notification of violations. In the event the site safety manager or coordinator discovers a violation of this chapter or any rules promulgated thereunder, the site safety plan, or the tenant or occupant protection plan, he or she shall immediately notify the person or persons responsible for creating the violation, whether these persons are employed by the general contractor or by subcontractors. If the site safety manager or coordinator is unable to obtain the cooperation of these persons in correcting the violation, he or she shall immediately inform the direct supervisor of the person or company responsible for creating the violation and request that the supervisor order the necessary corrective action. If such supervisor is not present at the site or is otherwise unavailable, or if informing the direct supervisor does not result in the violation being corrected, the site safety manager or coordinator shall notify the construction superintendent, or if the job does not require a construction superintendent, any other supervisory personnel of the permit holder or any other responsible manager or officer of the permit holder. All such violations and corrective work shall be recorded in the daily log.

§ 18. Section 3310.8.2 of chapter 33 of the New York city building code is amended by adding a new section 3310.8.2.1.2 to read as follows:

3310.8.2.1.2 Notification of construction superintendent. For a job that requires a construction superintendent, upon notification of the above conditions to the department, the site safety manager or coordinator shall notify the construction superintendent of the condition and that notification has been made to

the department.

§ 19. Section 3310.8.3 of chapter 33 of the New York city building code is REPEALED and replaced with a new section 3310.8.3 to read as follows:

3310.8.3 Inspections. Site safety inspections shall be performed and documented as required by Sections 3310.8.3.1 through 3310.8.3.4.

3310.8.3.1 Spot checks. The site safety manager or coordinator shall personally perform spot checks of the site on a regular basis throughout the day for compliance with the site safety plan, the tenant or occupant protection plan, the requirements of this chapter, and any rules promulgated thereunder.

3310.8.3.2 Enumerated inspections. The following inspections shall be performed by the site safety manager or coordinator, or by one or more individuals designated by the site safety manager or coordinator and certified as a site safety manager or coordinator in accordance with Chapter 4 of Title 28 of the *Administrative Code*:

1. Daily, weekly, and other checks as specified in rules promulgated by the commissioner.
2. Daily checks to ensure that a standpipe system is available and in a state of readiness at all times for use by firefighting personnel by verifying:
 - 2.1. That valves are in place at each story below the construction floor;
 - 2.2. That standpipes are connected to a water source or fire department connection; and
 - 2.3. That fire department hose connections are free from obstruction and are marked by a red light and sign that reads, "Standpipe Connection."
3. Weekly checks to verify that no breach exists in the standpipe system by visually tracing the standpipe, including risers, cross connections and fire department connections.

3310.8.3.3 Delegation. Nothing in this code shall be read to prohibit the site safety manager from delegating enumerated inspections to an individual certified as a site safety coordinator at a site where a primary site safety manager is required; however, the site safety manager or coordinator may not delegate their general responsibility to perform spot checks of the site throughout the day. Delegation does not relieve the site safety manager or coordinator from the responsibility to ensure such inspections are adequately performed.

3310.8.3.4 Record of inspections. A record of all such inspections shall be maintained by such site safety manager or coordinator in the site safety log in accordance with Section 3310.8.4.

§ 20. Section 3310.8.4 of chapter 33 of the New York city building code is amended by adding a new section 3310.8.4.3 to read as follows:

3310.8.4.3 Review and signature by the construction superintendent. Prior to the start of the subsequent work day, the previous day's entries in the site safety log shall be reviewed by the construction superintendent,

and an entry shall be made in the site safety log, signed and dated by the construction superintendent, that he or she has reviewed all of the previous day's entries.

§ 21. Section 3310.8.6. of chapter 33 of the New York city building code is REPEALED and reserved.

§ 22. This local law shall take effect on January 1, 2022 and shall apply to permits issued or renewed on or after such date, provided 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.