

Proposed Int. No. 1448-A

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:

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

3           **§ 28-105.12.8. Site safety plan.** Where a site safety plan is required by this code or by  
4 the department, [applications shall include a site safety plan approved in accordance with the  
5 New York city building code. A] all work shall adhere to the site safety plan. Site safety plans  
6 shall require approval of the department where specified in this code or the New York city  
7 building code.

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

9           **3301.3 Site safety managers, coordinators and superintendent of construction.** A site safety  
10 manager or site safety coordinator must be designated and present at the construction or  
11 demolition of a major building in accordance with Section 3310. A superintendent of  
12 construction is required for the construction or demolition of such other buildings as identified  
13 [pursuant to rules promulgated by the commissioner] in Section 3301.13.3.

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

17           **3301.13 Scope.** This section sets forth requirements for construction superintendents at certain  
18 construction or demolition sites.

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20           **3301.13.1 Site safety plan.** For jobs that require the designation of a primary construction  
21 superintendent pursuant to Section 3301.13.3, a site safety plan that meets the applicable  
22 requirements of Article 110 of Chapter 1 of Title 28 of the *Administrative Code* shall be kept  
23 on site and made available to the department upon request.

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25           **3301.13.2 Definitions.** For the purposes of this section, the following terms shall have the  
26 following meanings:

1  
2 Approved documents. For the purpose of this section, approved documents include  
3 construction documents as defined by this code, and any and all documents that set forth the  
4 location and entire nature and extent of the work proposed with sufficient clarity and detail to  
5 show that the proposed work conforms to the provisions of this code and other applicable  
6 laws and rules. In addition to construction documents, such documents include, but are not  
7 limited to, shop drawings, specifications, manufacturer’s instructions and standards that have  
8 been accepted by the design professional of record or such other design professional retained  
9 by the owner for this purpose.

10  
11 Construction superintendent. An individual registered with the department and responsible  
12 for all duties as defined in this section.

13  
14 Job. A design and construction/demolition undertaking consisting of work at one building or  
15 structure, as well as related site improvements and work on accessory structures. A job may  
16 consist of one or more plan/work applications, and may result in the issuance of one or more  
17 permits.

18  
19 Permit holder. The individual who receives the primary department-issued permit for the job.

20  
21 **3301.13.3 Designation of primary construction superintendent.** The permit holder shall  
22 designate a primary construction superintendent, prior to the commencement of work, in a  
23 form and manner acceptable to the department, for the following types of jobs:

- 24  
25 1. The construction of a new building;  
26  
27 2. The full demolition of an existing building;  
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29 3. An alteration to an existing building that involves one or more of the following:  
30  
31 3.1 A vertical enlargement;  
32  
33 3.2 A horizontal enlargement;  
34  
35 3.3 The alteration or demolition of more than 50 percent of the floor area of the  
36 building during the course of work over any 12 month period;  
37  
38 3.4 The removal of one or more floors during the course of work over any 12 month  
39 period;  
40  
41 3.5 Work that requires a special inspection for underpinning; or  
42  
43 3.6 Work that requires a special inspection for the protection of sides of excavations;  
44 or  
45

1           4. Other jobs that pose an enhanced risk to the public and property, as determined by the  
2           commissioner.

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

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7           1. Work listed in Section 3310.1, for which a site safety manager or coordinator must  
8           be designated.

9  
10          2. Work which solely involves the construction of a new 1-, 2-, or 3-family building.

11  
12          **3301.13.4 Change of designation.** The permit holder must immediately notify the  
13          department, in a form and manner acceptable to the department, of any permanent change to  
14          the primary construction superintendent.

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16          **3301.13.5 Alternate construction superintendent.** In the event the primary construction  
17          superintendent is temporarily unable to perform their duties, an alternate construction  
18          superintendent, designated by the permit holder and acceptable to and acting on behalf of the  
19          primary construction superintendent, must fulfill the duties of the primary construction  
20          superintendent. In the event that an alternate construction superintendent will be acting in  
21          place of the primary construction superintendent for a period longer than two consecutive  
22          weeks, the permit holder must notify the department, in a form and manner acceptable to the  
23          department, of such change.

24  
25          **3301.13.6 Limitations on the designation of primary or alternate construction**  
26          **superintendents.** An individual may only be designated as a primary or alternate  
27          construction superintendent for that number of jobs for which he or she can adequately  
28          perform all required duties. No individual may be designated as the primary construction  
29          superintendent on more than ten jobs.

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31          **3301.13.7 Duties of construction superintendents.** The duties of a construction  
32          superintendent shall include:

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34           1. Acting in a reasonable and responsible manner to maintain a safe job site and assure  
35           compliance with this chapter and any rules promulgated thereunder at each job site  
36           for which the construction superintendent is responsible;

37  
38           2. To the extent that a registered design professional or special inspection agency is not  
39           responsible, the construction superintendent must assure compliance with the  
40           approved documents at each job site for which the construction superintendent is  
41           responsible;

42  
43           3. Fulfilling the duties of a superintendent of construction assigned by Chapter 1 of Title  
44           28 of the *Administrative Code* at each job site for which the construction  
45           superintendent is responsible; and

1 4. Visiting each job site for which the construction superintendent is responsible each  
2 day when active work is occurring.

3  
4 **Exception:** The construction superintendent is not required to be present at the site  
5 during the following activities, provided no other work is in progress:

6  
7 1. Surveying that does not involve the disturbance of material, structure, or earth;

8  
9 2. Use of a hoist to transport personnel only;

10  
11 3. Use of a material hoist that is fully enclosed within the perimeter of the building;

12  
13 4. Finish trowelling of concrete floors;

14  
15 5. When personnel are provided for temporary heat, light, or water; or

16  
17 6. Truck deliveries to the site where the sidewalk is closed and the entrance gate is  
18 within that closed sidewalk area.

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20 **3301.13.8 Inspection.** Each time the construction superintendent visits a job site for which  
21 he or she is responsible, the construction superintendent must inspect all areas and floors  
22 where construction or demolition work, and ancillary activity, is occurring, and:

23  
24 1. Verify work is being conducted in accordance with sound construction/demolition  
25 practices;

26  
27 2. Verify compliance with the approved documents; and

28  
29 3. Verify compliance with this section and any rules promulgated thereunder.

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31 **3301.13.9 Correcting unsafe conditions.** In the event the construction superintendent  
32 discovers work at a job site for which he or she is responsible that is not being conducted in  
33 accordance with sound construction/demolition practices, not in compliance with approved  
34 documents, or not in compliance with this section and any rules promulgated thereunder, the  
35 construction superintendent must immediately notify the person or persons responsible for  
36 creating the unsafe condition, order the person or persons to correct the unsafe condition, and  
37 take all appropriate action to ensure the unsafe condition is corrected. Where an unsafe  
38 condition relates to an item which a registered design professional or special inspection  
39 agency is responsible for implementing or verifying, the construction superintendent must  
40 also notify the responsible registered design professional or special inspection agency of the  
41 unsafe condition. All such unsafe conditions, notices, orders, and corrective work must be  
42 recorded in the log required by Section 3301.13.13.

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44 **3301.13.10 Notification of conditions to the department.** The construction superintendent  
45 must immediately notify the department, in a form and manner acceptable to the department,  
46 when he or she discovers, at any job site for which the construction superintendent is

1 responsible, any of the conditions listed in Section 3310.8.2.1. Notification to the department  
2 does not relieve the construction superintendent of their obligations under Section 3301.13.9.  
3

4 **3301.13.11 Reporting of accidents and damage to adjoining property.** The construction  
5 superintendent must immediately notify the department, in a form and manner acceptable to  
6 the department, of any accident at any job site for which the construction superintendent is  
7 responsible, or any damage to adjoining property caused by construction or demolition  
8 activity at the job site.  
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10 **3301.13.12 Competent person.** The construction superintendent must designate a competent  
11 person for each job site for which the construction superintendent is responsible and ensure  
12 such competent person is present at the designated job site at all times active work occurs.  
13 The designation of a competent person does not alter or diminish any obligation imposed  
14 upon the construction superintendent. The competent person must carry out orders issued by  
15 the construction superintendent; be able to identify unsanitary, hazardous or dangerous  
16 conditions; take prompt corrective measures to eliminate such conditions; immediately report  
17 to the construction superintendent accidents at the job site or any damage to adjoining  
18 property caused by construction or demolition activity at the job site; and be able to  
19 effectively communicate workplace instructions and safety directions to all workers at the  
20 site.  
21

22 **3301.13.13 Log.** The construction superintendent must maintain a log at each job site for  
23 which the construction superintendent is responsible. Such log must be made available to the  
24 commissioner upon request. The construction superintendent must complete such log prior to  
25 departing the job site and shall sign and date each day's log entry. Such log must be  
26 organized and recorded in a form and manner acceptable to the department. Such log must  
27 contain, at a minimum, the following information:  
28

- 29 1. The presence of the construction superintendent at the job site as evidenced by their  
30 printed name and signature and a notation indicating the times of arrival at, and  
31 departure from the site, which must be recorded immediately after arriving at the site  
32 and immediately prior to leaving the site, respectively;  
33
- 34 2. The general progress of work at the site, including a summary of that day's work  
35 activity;  
36
- 37 3. The construction superintendent's activities at the site, including areas and floors  
38 inspected;  
39
- 40 4. Any unsafe condition(s) observed pursuant to Section 3301.13.9, and the time and  
41 location of such unsafe condition(s);  
42
- 43 5. Orders and notice given by the construction superintendent pursuant to Section  
44 3301.13.9, including the names of individuals issued orders or notices, any refusals to  
45 comply with orders or respond to notices given, follow up action taken by the

1 construction superintendent, and where the condition giving rise to the order or notice  
2 is corrected, the nature of the correction;

3  
4 6. Any violations, stop work orders, or summonses issued by the department, including  
5 date issued and date listed or dismissed;

6  
7 7. Any accidents; and

8  
9 8. The name of the competent person designated in accordance with Section 3301.13.12,  
10 along with an accompanying signature of the competent person. If the construction  
11 superintendent assigns a new competent person, the date and time of this change,  
12 along with the name of the new competent person, must be recorded, accompanied by  
13 the signature of the new competent person. If the construction superintendent is not at  
14 the site when this occurs, the new competent person must instead make the log entry,  
15 which the construction superintendent must sign and date upon his or her next visit to  
16 the job site.

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18 **3301.13.14 Disciplinary actions.** Construction superintendents are subject to the provisions  
19 of Section 28-401.19 of the *Administrative Code*.

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21 **3301.13.15 Cooperation required.** Construction superintendents must comply with the  
22 provisions of Section 28-401.20 of the *Administrative Code*.

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24 **3301.13.16 Obligation of others.** Nothing in this rule is intended to alter or diminish any  
25 obligation otherwise imposed by law on others, including but not limited to, the owner,  
26 permit holder, construction manager, general contractor, contractor, materialman, architect,  
27 engineer, land surveyor, or other party involved in a construction project to engage in sound  
28 engineering, design, and construction practices, and to act in a reasonable and responsible  
29 manner to maintain a safe job site.

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31 **3301.13.17 Registration and qualifications of construction superintendents.** Construction  
32 superintendents shall register with the department, in a form and manner acceptable to the  
33 department, and shall meet any qualifications set forth in rules by the department.

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35 § 4. This local law shall take effect 180 days after it becomes law, except that the  
36 commissioner of buildings may take such measures as are necessary for its implementation,  
37 including the promulgation of rules, before such effective date.