

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2018**

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**No. 65**

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Introduced by Council Members Williams, Chin, Kallos, Menchaca and Barron (by request of the Mayor).

**A LOCAL LAW**

**To amend the administrative code of the city of New York and the New York city building code, in relation to notification of proposed soil or foundation work**

*Be it enacted by the Council as follows:*

Section 1. Chapter 3 of title 24 of the administrative code of the city of New York is amended to add a new section 24-367 to read as follows:

*§ 24-367 Soil and foundation work; notification and permit required. a. Whenever soil or foundation work, as defined in chapter 33 of the New York city building code, for any purpose, is proposed to a depth greater than 50 feet in the borough of the Bronx or on or north of 135th Street in the borough of Manhattan, or greater than 100 feet in the borough of Brooklyn, Queens, or Staten Island or south of 135th Street in the borough of Manhattan, the owner of the premises, engineer, architect or contractor shall notify the department of environmental protection of the location of such activity at least 30 business days prior to commencement of such activity. Within 10 business days of receiving such notification, the department shall determine whether the location of such activity is in close proximity to critical infrastructure, as defined in rules promulgated by the department, and notify the owner of the premises, engineer, architect or contractor of such determination. If the department determines that the location of such activity is*

*in close proximity to critical infrastructure, the owner of the premises, engineer, architect or contractor shall obtain a permit from the department prior to commencement of such activity. The issuance of any permit or approval by any agency of the city other than the department for such activity shall not relieve the owner of the premises, engineer, architect or contractor of the obligation to comply with the notification and permitting requirements of this section. The department may promulgate a rule waiving or amending the notification and permitting requirements of this section where the department determines that such activity must be performed on an emergency basis.*

*b. 1. The department may issue a stop work order whenever the department finds that any soil or foundation work in violation of this section or any rules promulgated thereunder creates a danger to critical infrastructure.*

*2. Such order shall be posted at the site of the soil or foundation work and served personally on or mailed to the owner or developer or to the person executing the work at the site or the agent of any of them. When there is an immediate danger to critical infrastructure, a verbal order to stop work may be given followed promptly by a written order in accordance with this subdivision.*

*3. Upon issuance of a stop work order, work specified in the order shall immediately cease, except work authorized or required by the commissioner to make the site safe.*

*4. No person shall, with knowledge or notice of a stop work order, allow, authorize, promote, continue or cause to be continued any work covered by the stop work order, except work authorized or required by the commissioner to make the site safe.*

*5. Upon application in accordance with the rules of the department, the commissioner shall rescind the stop work order where the commissioner finds (i) that the condition that gave rise to its*

*issuance has been corrected and either all civil penalties or criminal fines assessed for any violation of such order have been paid or, where a violation is pending, security for the payment of such penalties or fines has been posted or, (ii) where the stop work order was issued in error or conditions are such that the order should not have been issued. The commissioner may by rule require the payment of a fee in the amount of the expense of additional inspection and administrative expense related to such stop work order.*

*6. It shall be unlawful to tamper with, remove or deface a written posted stop work order from the location where it was affixed unless and until such stop work order has been rescinded by the commissioner. The owner or other person in control of the location shall ensure that the stop work order remains posted until rescinded by the commissioner.*

§ 2. Section 3304.3.3 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**3304.3.3 Notification to the Department of Environmental Protection.**

Whenever [excavation or drilling]*soil or foundation work*, for any purpose, *is proposed to a depth greater than 50 feet (15 240 mm) in the borough of the Bronx or on or north of 135th Street in the borough of Manhattan, or greater than 100 feet (30 480mm) [is proposed in a block that has any part of its boundary falling within 500 feet (152 m) horizontal distance from the centerline of any water tunnel as measured at or near the surface (the “Corridor”), an approval and permit shall be obtained from the New York City Department of Environmental Protection. The] in the borough of Brooklyn, Queens, or Staten Island or south of 135th Street in the borough of Manhattan, the owner of the premises, engineer, architect or [the] contractor shall notify the New York City Department of Environmental Protection prior to commencement of [any] such activity in accordance with Section 24-367 of the Administrative Code and any rules promulgated thereunder.* The issuance of any permit or approval by the department shall not relieve the applicant, *owner, engineer, architect or contractor* of the obligation to comply with any [approval] *notification* or permitting requirements of the New York City Department of Environmental Protection.

§ 3. This local law takes effect one year after it becomes law, provided, however, that the commissioner of environmental protection may take all actions necessary for its implementation, including the promulgation of rules, 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, 2017 and returned unsigned by the Mayor on January 22, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 65 of 2018, Council Int. No. 1120-A of 2016) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.