



FAQs: Essential and Non-Essential Construction In New York City During the COVID-19 New York State Emergency

as of May 18, 2020¹

EMERGENCIES

Q1. If I observe a condition on my site that I deem to be an emergency what should I do?

A1. Address the condition immediately and submit the appropriate application to the Department within two business days of commencement of the emergency work.

Q2. Can emergency work that requires no permit from the Department be performed during this suspension of non-essential construction?

A2. The work can be performed if it is necessary to address any condition requiring immediate corrective action that severely affects life, health, safety, property, or a significant number of persons.

LOCAL LAW COMPLIANCE INSPECTIONS & TESTS

Q1. Are local law compliance inspections and tests (elevators, facades, boilers) permissible during this suspension of non-essential construction work?

A1. Yes. Local Law compliance inspections and tests are considered projects necessary to protect the health and safety of occupants.

ELEVATORS

Q1. What elevator work is permissible during this suspension of non-essential construction work?

A1. Only work necessary to maintain safe elevator service is permissible during this suspension of non-essential construction work. This includes in-progress modernization work of currently out of service elevators, and repairs of out of service elevators. This applies to all occupied buildings, regardless of the number of elevators they have.

Q2. Is the installation of door lock monitoring devices permissible during this suspension of non-essential construction work?

A2. Yes, door lock monitoring device installation is necessary to protect the health and safety of occupants.

¹ This FAQ document is provided in conjunction with Governor's Order 202.6 and guidance from ESDC and DOB. It will be updated as appropriate and is subject to change.

FAÇADES

Q1. Is façade restoration permissible during this suspension of non-essential construction work?

A1. Only façade restoration work necessary to correct conditions labeled as Unsafe in a Local Law 11 Façade Inspection Report, or necessary to address any condition requiring immediate corrective action that severely affects life, health, safety, property, or significant number of persons can continue during this suspension of non-essential construction work.

As a reminder, there must be appropriate protection (e.g. sidewalk shed) to protect the public.

Q2. Are façade inspections permissible during this suspension of non-essential construction work?

A2. Yes, façade inspections are permissible during this suspension of non-essential work.

Q3. Is the use of suspended scaffolds and other façade inspection related equipment permissible during this suspension of non-essential construction work?

A3. Equipment necessary to perform façade inspections (e.g. suspended scaffolds, industrial rope access) can be used during this suspension of non-essential work.

Q4. Is the use of probes in cavity walls permissible during this suspension of non-essential construction work?

A4. Probes that are required for cavity walls as part of Local Law 11 façade inspections are permissible. Probes on other types of walls or buildings will be evaluated based on the reason for performing the probe (e.g. correcting an emergency condition).

PLUMBING, FIRE SUPPRESSION, ELECTRICAL, MECHANICAL (HVAC), AND BOILERS

Q1. Can I perform the above work during this suspension of non-essential construction work?

A1. Only if the work is necessary to restore the interruption of essential services, or necessary to address any condition requiring immediate corrective action that severely affects life, health, safety, property, or a significant number of persons.

New applications for electrical or Limited Alteration Application (LAA) permits require completion of an essential construction questionnaire to perform emergency or solitary work. On the application in DOB NOW: *Build*, complete the Essential Construction tab, located under the Scope of Work tab. The questionnaire must be completed in order for the application to be submitted. If the electrical or LAA permit was submitted prior to April 3, 2020 and work needs to continue, submit an Essential Construction request at www.nyc.gov/dobnow.

Once the Essential Construction request is approved or the permit is issued, the job will be listed on the [Essential Active Construction Sites map](#) and a Certificate of Authorization must be printed for each permit and posted at the work site. To print the Certificate of Authorization, go to www.nyc.gov/dobnow and from the Essential Construction tab (without logging in), enter the job number and select **Print Certificate**.

VIOLATIONS

Q1. What is the penalty associated with a violation for performing non-essential work?

A1. Beginning March 31, 2020, violations for performing non-essential construction work will result in a maximum penalty of \$10,000, issued to each permit holder found in violation on the site.

Q2. What is the penalty associated with a violation for not practicing social distancing on an essential construction site?

A2. Violations for not practicing social distancing on an essential construction site will result in a maximum penalty of \$10,000, issued to each permit holder found in violation on the site. Please visit the [DOB COVID-19 Response page](#) for safety guidance on construction sites.

Q3. I am responsible for a large, complex site that will require additional time beyond March 31, 2020 to safely secure. Will I be subject to a violation?

A3. Such work requires approval by the Department. The applicant of record needs to submit an Essential Construction Request at www.nyc.gov/dobnow for the Department's consideration and response. The request must include an explanation as to why additional time is necessary and the amount of additional time requested. If approved, such work can proceed only until it is safe to shut down the site.

Q4. I need to perform work to correct conditions in response to a Department-issued violation. Can I continue? If not, will I be subject to additional violations for non-compliance?

A4. You can perform work to correct conditions if the work is necessary to address any condition requiring corrective action that severely affects life, health, safety, property, or significant number of persons. Such work requires approval by the Department. The applicant of record needs to submit an Essential Construction Request at www.nyc.gov/dobnow for the Department's consideration and response. The request must include an explanation of the scope of work and what qualifies it to continue. If denied, you will not be subject to additional violations for non-compliance during the duration of this suspension of non-essential work.

Q5. I received a violation for performing non-essential construction work. I believe the work to be essential. How do I contest?

A5. The applicant of record needs to submit an Essential Construction Request at www.nyc.gov/dobnow for the Department's consideration and response. While the Department considers this request, work must be suspended except to secure and maintain the site. The request must include an explanation of the scope of work and why it should be treated as essential. Any supporting documentation should be provided. The Department's decision on your request will inform the resolution of the violation.

SECURING & MAINTAINING SITES

Q1. How should weekly inspection reports by safety professionals be submitted to the Department?

A1. For suspended sites that require a site safety manager, site safety coordinator or construction superintendent, a weekly certification must be submitted to the Department as outlined in [Buildings Bulletin 2020-006](#). To submit a report, use an eFiling account to log into DOB NOW at www.nyc.gov/dobnow and select the Essential Construction portal. If you need to create an eFiling account, visit www.nyc.gov/dobnowtips. You do not need to register for eFiling with your license number.

From the Essential Construction portal, select **+Weekly Safety Inspection Report** and enter the BIS job/document number. Complete the required fields and select the Save button to then complete the Documents section (upload the report that is prepared, signed, and dated by the individual who performed the inspection that is kept at the site) and Statements & Signature section. Select the Submit button to complete the transaction. An email notification will be sent to confirm submission. A new submission must be made each week for every job that requires a safety inspection report.

Q2. Can hoists be used in furtherance of weekly and daily inspections to secure and maintain a site?

A2. Yes, as inspection of the entire site is critical to determine if it is appropriately secured and maintained, the use of hoists is necessary.

Q3. Are daily sidewalk shed inspections required during this suspension of non-essential construction work?

A3. Daily sidewalk shed inspections are only required for sheds in use for essential construction work.

ESSENTIAL CONSTRUCTION REQUESTS

Q1. I'm not sure if my project is essential based on the guidance. What do I do?

A1. The applicant of record needs to submit an Essential Construction Request at www.nyc.gov/dobnow for the Department's consideration and response. While the Department considers this request, work must be suspended except to secure and maintain the site. The request must include an explanation of the scope of work and why it should be treated as essential. Any supporting documentation should be provided.

Q2. Who can submit an Essential Construction Request?

A2. Only the applicant of record (the Registered Design Professional on the PW1) can submit an Essential Construction Request. Enter BIS job-doc in the format 123456789-01, enter DOB NOW jobs in the format M00000001-I1.

Q3. Do all Essential Construction Requests require a plan examiner review?

A3. Essential Construction Requests submitted as work limited to a single worker will require professional certification and be subject to Department audit. All other requests will be reviewed by a plan examiner.

Q4. The Essential Construction Request I submitted at www.nyc.gov/dobnow was denied. Is there an appeals process?

A4. To request an appeal, login at www.nyc.gov/dobnow and from the dashboard, under Filing Actions, select Appeal. Submit any additional documentation required and resubmit the request. Selections made on the Essential Construction Questionnaire cannot be changed during the appeal process. A maximum of two appeals are allowed for new requests submitted on or after April 15, 2020. Appeals are no longer available for requests submitted prior to the updated Department guidance issued on April 15, 2020. Submit a new Essential Construction Request for consideration under the updated guidelines.

Q5. My Essential Construction Request is in lapsed or revoked status. Can I submit a new request?

A5. Yes, new requests for previously lapsed or revoked requests can be submitted. The applicant of the job can log in at www.nyc.gov/dobnow and submit a new Essential Construction Request that includes a more detailed justification and scope of work. Requests for emergency construction, work necessary protect health and safety of occupants, and construction in support of an essential business will be subject to review by a plan examiner.

CERTIFICATE OF AUTHORIZATION

Q1. What is a Certificate of Authorization and when does it need to be posted?

A1. Once an Essential Construction Request is approved in the Essential Construction portal, a Certificate of Authorization must be printed for each approved job and posted at the work site. The Certificate is valid from the date the Essential Construction request was approved through the duration of the State of Emergency. If the State of Emergency is extended, the Certificate date will automatically be updated and a new Certificate will need to be posted.

A Certificate of Authorization is only required to be posted at work sites categorized as Approved Work on the [Essential Active Construction Sites](#) map. All other categories (affordable and public housing, homeless shelter, hospital/health care, schools and utilities) do not require a certificate provided the building is identified as such on the Essential Active Construction Sites map.

Q2. How do I print a Certificate of Authorization?

A2. To print the Certificate, go to www.nyc.gov/dobnow and from the Essential Construction tab (without logging in), enter the job number and select Print Certificate. The Certificate can also be printed when logging in from the Essential Construction dashboard by opening the request and selecting the printer icon on the Actions column for each Job Filing No.

MISCELLANEOUS

Q1. I am performing work by myself. Is that permissible?

A1. This work can be performed as long as there is only one worker on the job site.

Q2. My affordable housing project is only partially affordable. Can I continue?

A2. Only affordable housing projects with a minimum of 20% of the units being affordable that are new building construction, that are subject to a regulatory agreement and/or declaration from a government agency can continue during this suspension of non-essential construction.

Q3. Is school construction permissible during this suspension of non-essential construction?

A3. Yes. Construction work on public and private schools is permissible during this suspension of non-essential construction.

Q4. Is construction work on behalf of the City of New York permissible during this suspension of non-essential construction?

A4. Yes, as determined by the City.

Q5. Can construction work related to an ESDC-defined essential business be performed during this suspension of non-essential construction work?

A5. Construction of such work can proceed only if it pertains to alterations of existing buildings that were already occupied by an essential business prior to April 15, 2020.

Q6. Can antenna, construction fencing, cub cut, and sidewalk shed work be performed during this suspension of non-essential construction work?

A6. Yes. These work types are exempt and can proceed. Already permitted work can proceed and new work does not require an Essential Construction Request.

During the State of Emergency, a PW2 Work Permit Application cannot be submitted at the same time as a PW1 Plan Work Application in DOB NOW: Build. First submit the PW1 and once it is approved, the PW2 can be created.

Q7. Does construction work on assisted-living facilities qualify as essential?

A7. Yes. ESDC guidance treats assisted living facilities as Essential Health Care Operations.

Q8. Will the Department be issuing After-Hours Variances for essential construction work?

A8. All After-Hours Variance (AHV) permits are rescinded as of Monday, March 30, 2020. AHVs can only be requested for jobs that are essential or have an approved Essential Construction Request. AHV applications must be dropped off at a borough office; they cannot be submitted in eFiling or DOB NOW. See the [Application Processing Service Notice](#) for information about drop off procedures.

Q9. Can I remove my sidewalk shed if the associated hazard it was installed to protect has been made safe?

A9. Yes, the shed can be removed during this suspension of non-essential construction.

Q10. Do I have to renew permits?

A10. Permits that would have expired during the state of emergency have been extended for the duration of the state of emergency. If the state of emergency is extended, the permit expiration date will automatically be extended. Applicants are encouraged to renew permits in a timely manner. There are no changes to the permit renewal process and all applicable fees apply. While the expiration date of the permits has been extended, valid insurance required by law or rule is still required and no work can be performed without updated insurance under these extended permits.

Q11. Will Development Inspections continue during this suspension of non-essential work?

A11. Development Inspections will be prioritized for essential construction work.

Q12. Will plan reviews and approvals for non-essential construction work continue during this suspension of non-essential work?

A12. Yes, plan reviews and approvals will continue. Only essential construction work will be permitted. Professionally certified PW1 applications in DOB NOW cannot be submitted with a PW2 work permit application.

Q13. Can I apply for a Place of Assembly (PA) or Temporary Place of Assembly (TPA) during this suspension of non-essential construction?

A13. PA requests can be submitted in DOB NOW: *BUILD*. TPA requests are suspended for the duration of this state of emergency.

Q14. Does the suspension of non-essential construction apply to transportation infrastructure?

A14. No, the suspension does not apply to construction on roads, bridges, rails, airports, and transit facilities that is allowable under the Governor's Executive Orders and ESDC guidance.

Q15. Can the installation of sprinklers in existing buildings required by Local Law 26 of 2004 be performed during this suspension of non-essential construction?

A15. Yes, as this work is necessary to protect the health and safety of occupants it can be performed during this suspension of non-essential construction.

Q16. Is curb cut work permissible during the suspension of non-essential construction?

A16. Curb cuts and sidewalk work are considered roadway work and therefore essential and can proceed.

Q17. Can I perform building construction work that does not require a permit from the Department during this suspension of non-essential construction work?

A17. No. This work cannot be performed unless it is necessary to address any condition requiring immediate corrective action that severely affects life, health, safety, property, or a significant number of persons, or if it is performed by only one worker.

Q18. For how long will this suspension of non-essential construction work be in place?

A18. This suspension of non-essential construction work will continue for as long as the state of emergency is in place. Please visit the [DOB COVID-19 Response page](#) for updates.

