

CONSTRUCTION SAFETY

Presentation for the Associated General Contractors of New York State (AGC NYS)

February 1, 2018



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Agenda

- Local Law 78 of 2017 – Incident Reporting
- Local Law 155 of 2017 – Contractor Watch List
- Local Law 159 of 2017 – Safe Construction Bill of Rights
- Local Law 156 of 2017 – Civil Penalties for Work Without a Permit
- Local Law 157 of 2017 – Civil Penalties for Violating a Stop Work Order
- Local Law 203 of 2017 – Civil Penalties for Site Safety Violations
- Local Law 70 of 2018 – Civil Penalty for Site Safety Violations Resulting in Death or Serious Injury
- Local Law 81 of 2017 – Construction Superintendents
- **Local Law 196 of 2017 – Construction Safety Training**

Local Law 78 of 2017 – Incident Reporting

Local Law 78 of 2017 expanded the data that must be reported when an incident that results in an injury or fatality to a member of the public or a construction worker occurs.

Effective Date: 5/10/2017; DOB monthly reporting January 2018

- The data, among other things, must now include:
 - a detailed description of the incident;
 - more information about the construction site where the incident occurred; and
 - more information about the worker involved in the incident.
- The Department published a Service Notice to its website in December to inform property owners and other responsible parties of their duty to report incidents within three days.
- The Department is in the process of creating a form for such property owners and responsible parties to use to report incidents. The Department expects to publish an updated Service Notice with a link to the form in the coming weeks.

Local Law 155 of 2017 – Contractor Watch List

Local Law 155 of 2017 requires the Department to compile and publish a list of contractors who have been found to have performed work without a required permit in the preceding two years.

Effective Date: 12/28/17

- Contractors on the list will be subject to increased oversight for a two year period.
- The Department will perform at least one inspection at any site where a contractor that is included on the list performs work in an occupied building.
- The Department published a Service Notice to its website in December to inform interested parties of this law and has compiled the list of such contractors who are subject to increased oversight.

Local Law 159 of 2017 – Safe Construction Bill of Rights

Local Law 159 of 2017 requires that upon filing a new building or major alteration application owners are required to distribute to each occupied dwelling unit or post in conspicuous locations on each floor a notice.

Effective Date: 12/28/17

- Such notice must include:
 - a description of the work being conducted and the locations in the multiple dwelling where the work will take place;
 - the hours of construction;
 - the projected timeline for the completion of the work;
 - a description of the amenities or essential services anticipated to be unavailable or interrupted during the work; and
 - the contact information for an agent or employee of the owner who can be reached for matters pertaining to the work being performed.
- The Department published a Service Notice to its website in December to inform interested parties of this law.
- The Department of Housing Preservation and Development (HPD) has created a notice that owners can use to comply with this requirement.
- HPD and the Department are responsible for enforcing this law.

Laws Related to Civil Penalty Increases

- **Local Law 156 of 2017** increased the penalties for work without a permit on a one- or two-family dwelling from 4 times the amount of the fee for such permit to 6 times and for work without a permit on all other buildings from 14 times to 21 times.
 - Effective Date: 12/28/17
- **Local Law 157 of 2017** increased the penalties for violating a stop work order from \$5,000 to \$6,000 for the initial violation and from \$10,000 to \$12,000 for subsequent violations.
 - Effective Date: 12/28/17
- **Local Law 203 of 2017** will increase the minimum and maximum civil penalties and fines for major violations and immediately hazardous violations of the site safety provisions of the New York City Building Code and the Administrative Code of the City of New York to \$1,000 and \$2,000, respectively.
 - Effective Date: 03/27/18
- **Local Law 70 of 2018** will allow for the recovery of penalties of up to \$500,000 for companies and \$150,000 for individuals for a violation of the site safety provisions of the construction code, where the violation is accompanied by death or serious injury. Requires a civil action to be brought by the City in which the court will determine the penalty.
 - Effective Date: 7/18/2018

Local Law 81 of 2017 – Construction Superintendents

Local Law 81 of 2017 expanded the Site Safety Plan requirement and codified the Department's Construction Superintendent rule.

Effective Date: 11/6/2017

Site Safety Plan Expansion

Sites that require the designation of a Construction Superintendent must have a Site Safety Plan. Such Site Safety Plans do not need to be approved by the Department but must be kept on site and made available to the Department upon request.

Local Law 81 of 2017 – Construction Superintendents

What work requires the designation of a Construction Superintendent?

- The construction of a new building < 10 stories/125 feet;
- The full demolition of a new building < 10 stories/125 feet;
- An alteration to a new building that involves one of the following:
 - A vertical enlargement;
 - A horizontal enlargement;
 - The alteration or demolition of more than 50 percent of the floor area of the building and requiring structural stability special inspection;
 - Complete removal of one or more floors ;
 - Work that requires a special inspection for underpinning or support of excavation (SOE)
- Other jobs that pose an enhanced risk to the public and property, as determined by the Commissioner.

Local Law 81 of 2017 – Construction Superintendents

*What work does **not** require the designation of a Construction Superintendent?*

- Work for which a Site Safety Coordinator or Site Safety Manager is required; and
- Work which solely involves the construction of a new 1-, 2-, or 3-family building.

Local Law 81 of 2017 – Construction Superintendents

What are the duties of a Construction Superintendent?

A Construction Superintendent must:

- Visit each site at least once each day when active work is occurring. As part of such visit, such Construction Superintendent must inspect all areas and floors where construction or demolition work is occurring, correct all unsafe conditions discovered, notify the Department of any conditions discovered and report accidents and damage to adjoining property, and maintain a daily log at each site.
- Maintain a safe job site and ensure compliance with Chapter 33 (Safeguards During Construction and Demolition) of the Building Code.
- Ensure compliance with applicable construction plans.

Note: No individual may be designated as the primary construction superintendent on more than ten jobs.

Local Law 196 of 2017 – Construction Safety Training

Local Law 196 of 2017, previously referred to as “Intro. 1447,” when fully phased-in, will require that:

- **Workers** at certain job sites receive a minimum of 40 hours of safety training; and
- **Supervisors** at certain job sites receive a minimum of 60 hours of safety training.

Local Law 196 of 2017 – Construction Safety Training

Who must be trained?

- Workers at job sites that require a Site Safety Plan must be trained, including sites that are required to designate a Construction Superintendent, Site Safety Coordinator or Site Safety Manager.
- Supervisors at these job sites must also be trained, including Site Safety Managers, Site Safety Coordinators, Concrete Safety Managers, Construction Superintendents and competent persons.

Who does not need to be trained?

- Delivery persons, flag persons, professional engineers, registered architects, special inspectors, Department-licensees and Department-registrants (excluding safety professionals).
- Workers at job sites that only involve minor alterations or the construction of a new 1-, 2-, or 3-family home.

➤ **Notes:**

- If you fall into one of these categories but serve as a Site Safety Manager, Site Safety Coordinator, Concrete Safety Manager, Construction Superintendent or competent person, you must receive training.
- While licensees themselves do not need to be trained, employees working under their direct and continuing supervision do need to be trained.

Local Law 196 of 2017 – Construction Safety Training

What will the training entail?

Workers will have a variety of options available to them. The training could include either:

- an *OSHA 10-hour class*; **or**
- an *OSHA 30-hour class*; **or**
- a *100-hour training program* approved by the Department; **and**
- any additional training specified by the Department.

The total number of hours of required training and the list of topics that could satisfy the training requirements will be decided by the Department after receiving recommendations from a task force composed of members with relevant experience. The task force must provide its recommendations to the Department by no later than March 1, 2018.

Local Law 196 of 2017 – Construction Safety Training

Training Required on March 1, 2018

On March 1, 2018, at a minimum, the following training will be required:

- an *OSHA 10-hour class*; **or**
- an *OSHA 30-hour class*; **or**
- a *100-hour training program* approved by the Department.

Local Law 196 of 2017 – Construction Safety Training

Training Required on December 1, 2018

On December 1, 2018 (or June 1, 2019 if the Department determines that there is insufficient capacity to provide the training), at a minimum, the following training will be required, evidenced by a **Limited Site Safety Training Card**:

- an *OSHA 10-hour class and 20 additional training hours* specified by the Department, including eight hours of training relating to safeguarding against the dangers posed by falling workers and objects; **or**
 - an *OSHA 30-hour class*; **or**
 - a *100-hour training program* approved by the Department.
- On December 1, 2018 (or June 1, 2019 if the Department determines that there is insufficient capacity to provide the training), **supervisors** will be required to have a **Site Safety Training Supervisor Card**, which means that they have been fully trained.
- **Note:** At this point, new entrants to the construction or demolition work force may begin working with a **Temporary Site Safety Training Card**, which is a nonrenewable card that expires after six months that is issued to a person who completes an OSHA 10-hour class.

Local Law 196 of 2017 – Construction Safety Training

Training Required on May 1, 2019

On May 1, 2019 (or September 1, 2020 if the Department determines that there is insufficient capacity to provide the training), the following training will be required, evidenced by a **Site Safety Training Card**:

- *OSHA 10-hour class and 30-45 additional hours of training* specified by the Department, including eight hours of training related to safeguarding against the dangers posed by falling workers and objects; **or**
 - *OSHA 30-hour class and 10-25 additional hours of training* specified by the Department, including eight hours of training related to safeguarding against the dangers posed by falling workers and objects; **or**
 - a *100-hour training program* approved by the Department.
- **Note:** At this point, new entrants to the construction or demolition work force may begin working with a **Temporary Site Safety Training Card**, which is a nonrenewable card that expires after six months that is issued to a person who completes an OSHA 10-hour class.

Local Law 196 of 2017 – Construction Safety Training

Refresher Training

- Site Safety Training cards expire after five years and are renewable upon a showing by an applicant that such applicant has, in the one-year period preceding submission of a renewal application, completed eight training hours specified by the Department.
- Supervisor Site Safety Training cards also expire after five years and are renewable upon a showing by an applicant that such applicant has, in the one-year period preceding submission of a renewal application, completed sixteen training hours specified by the Department.

Local Law 196 of 2017 – Construction Safety Training

Online Training

- Online training in any format received before **October 16, 2017** will be accepted.
- After **October 16, 2017**, only in-person training and actively proctored online training will be accepted. Actively proctored online training is:
 - online training that is taken in a classroom with a proctor; or
 - online training that at a minimum requires the individual receiving the training:
 - to attest that they are the individual that received the training and that the training was received without assistance; and
 - to have their participation monitored at random times to ensure that the individual receiving the training is present for the entirety of the training.

Local Law 196 of 2017 – Construction Safety Training

Enforcement

- Permit applicants will be required to certify to the Department that workers who will be working under the permit will have the requisite training.
- If the Department discovers that workers at a construction site are untrained, the Department will issue a violation with civil penalties that go as high as \$5,000 per untrained worker to the owner of the site, the permit holder and the employer of the untrained worker. These civil penalties can be mitigated if an employer sponsors training for such untrained worker.
- If the Department discovers that a permit holder has failed to maintain a log that demonstrates that all of the workers at a site are trained, the Department will issue a violation with a civil penalty of \$2,500.
- The Department will also conduct unannounced inspections at sites where untrained workers have been discovered.

NEW 2018 SAFETY TRAINING REQUIREMENTS WORKING ON A LARGE CONSTRUCTION PROJECT? BY MARCH, YOU NEED SAFETY TRAINING!

Beginning **March 1, 2018**, many building construction workers **must** have 10 hours of safety training. Pursuant to Local Law 196 of 2017, by that date, you **must** be able to show that you have taken at least an OSHA 10 class within the previous five years to continue working. When fully phased in by 2019, workers at job sites that require a Site Safety Plan (which includes sites that must designate a Construction Superintendent, Site Safety Coordinator or Site Safety Manager) **must** receive a minimum of 40 hours of training.

WHO ELSE NEEDS TRAINING

Supervisors (Site Safety Managers, Site Safety Coordinators, Concrete Safety Managers, Construction Superintendents and competent persons) **must** receive a minimum 60 hours of training.

New entrants to the construction workforce may begin working upon completion of an OSHA 10 training course and within six months **must** obtain a minimum of 40 hours of training to continue working.

NOTE: Delivery persons, flag persons, professional engineers, registered architects, special inspectors, DOB licensees (excluding safety professionals mentioned above), and workers at job sites that only include minor alterations or the construction of new 1-, 2-, or 3-family homes do not require training.

ACCEPTABLE TRAINING

Online training received before **October 16, 2017** will be accepted. After the October 16 date, only in-person training and **actively proctored online training** will be accepted.

Actively proctored online training consists of:

- online training taken in a classroom with a proctor; **or**
- online training that at a minimum requires the individual receiving the training to:
 - declare that they are the individual that received the training and the training was received without assistance; **and**
 - have their participation monitored at random times to ensure the individual receiving the training is present for the entirety of the training.

WHAT HAPPENS IF TRAINING ISN'T DONE

Permit holders are required to attest to DOB that workers are trained. A violation with a civil penalty of up to **\$5,000** per untrained worker will be issued to the owner of the site, the permit holder, and the employer of the untrained worker.

A violation with a civil penalty of **\$2,500** will also be issued if a permit holder fails to maintain a log that proves all of the workers at a site are trained.

IMPORTANT DATES TO REMEMBER

BY MARCH 1, 2018 - OSHA 10; **or** OSHA 30; **or** a DOB-approved 100-hour training program.

BY DECEMBER 1, 2018 - OSHA 10 and 20 additional training hours specified by DOB; **or** OSHA 30; **or** a DOB-approved 100-hour training program.

*NOTE: Supervisors **must** complete OSHA 30 and a minimum of 30 additional training hours specified by DOB.*

BY MAY 1, 2019 - OSHA 10 and 30-45 additional training hours specified by DOB; **or** OSHA 30 and 10-25 additional training hours specified by DOB; **or** a DOB-approved 100-hour training program.

- Dates are subject to extension if DOB determines there is not enough capacity to provide the training.
- The number and content of additional training hours will be determined by DOB before **December 1, 2018**.

For questions about the new training requirements or to get additional information, please contact DOB at LocalLaw196@buildings.nyc.gov.

SERVICE UPDATE

NEW REQUIREMENT: Property Owners and Other Responsible Parties Must Report Construction Site Incidents

Effective January 19, 2018, property owners or the person otherwise in control of the site at which such incident occurred, or, if the incident involved a construction worker, the General Contractor or subcontractor that employed such worker must report every incident that occurred on every construction site subject to permitting by the Department of Buildings within three (3) business days in accordance with § 28-103.21 of the Administrative Code.

Regardless of whether the incident involved a violation of this Code or any other law or rule, the incident **must** be reported if it resulted in either:

- a **fatality** to any individual, including a member of the general public or a construction worker, or
- an **injury** to any individual, including a member of the general public or a construction worker, that requires transport by emergency medical services or requires immediate emergency care at a hospital or offsite medical clinic.

Building owners and other responsible parties will be required to submit information about each incident through an online form. A follow-up Service Notice will be sent out before January 19 with a link to this form on the Department's website.

Failure to comply with this mandate may result in a \$2,500 civil penalty in accordance with § 28-202.1 of the Administrative Code.

POST UNTIL: December 31, 2018

SERVICE UPDATE

Local Law 155 of 2017: Contractors Found to Perform Work Without Required Permit to be Listed on Department Website

Beginning on December 28, 2017, the Department of Buildings will publish a list of contractors who have been found to have performed work without a required permit in the preceding two years on its [website](#).

The Department will conduct at least one inspection at every site where a Contractor that is included on this list performs work in an occupied building.

Contractors will be removed from the list two years after the latter of the following dates:

- (i) the date they were placed on the watch list; or
- (ii) the date they last performed work without a required permit.

SERVICE UPDATE

Local Law 159 of 2017: Safe Construction Bill of Rights

Effective December 28, 2017, Owners of multiple dwellings are required to provide a Safe Construction Bill of Rights for the following types of construction:

- an application for a permit for work not constituting minor alterations or ordinary repairs;
- an emergency work permit;
- new buildings, immediately upon application for a Temporary Certificate of Occupancy

The Safe Construction Bill of Rights notice **must** include:

- a description of the type of work being conducted and the locations in the multiple dwelling where the work will take place;
- the hours of construction;
- a projected timeline for the completion of the work;
- a description of the amenities or essential services anticipated to be unavailable or interrupted during the work and how the owner will minimize such unavailability or interruption;
- contact information, including a telephone number, for an agent or employee of the Owner who can be reached for non-emergency matters pertaining to the work being performed;
- contact information, including a telephone number, for an agent or employee of the Owner who can be reached for emergency matters pertaining to the work being performed 24 hours a day, 7 days a week during the period of construction; and
- contact information for the relevant City and State agencies where occupants may submit complaints or ask questions about the work being performed.

Owners are required to distribute the Safety Construction Bill of Rights notice to each occupied dwelling unit and post it in the building lobby, as well as on every floor within 10 feet of every elevator bank, or in a building with no elevator, within 10 feet of every main stairwell. The notice **must** be published in English, Spanish and any other languages that the Department of Housing Preservation & Development (HPD) may provide by rule. The notice **must** remain posted until the completion of the described permitted work.

In addition to HPD, the Department may enforce these requirements. An Owner who fails to comply with these requirements will be subject to a violation.

For more information, please visit the [Codes](#) section of the Department's website.

UPCOMING CHANGE

Civil Penalties Increased for Violation of a Stop Work Order (SWO)

Recent legislation, on December 28, 2017, has increased the civil penalties for Stop Work Order violations.

Penalty for Violating a Stop Work Order

- The civil penalty for failure to comply with a Stop Work Order has increased to **\$6,000** for the initial violation and **\$12,000** for every subsequent violation, to be paid to the Department prior to the rescission of the Stop Work Order.

Payment of Civil Penalties

- Penalties for **Stop Work Order** violations are paid at the respective Borough Office where the complaint was issued.
- The Department accepts credit cards, certified bank checks, or money orders for the payment of penalties.

If your penalty was paid prior to December 28, 2017 the Department will waive the additional penalties mandated by Law. All penalties paid after December 28, 2017 will incur the increased civil penalties.

For general payment questions, please contact the Department's Cash Receipts Unit by email at cashreceipts@buildings.nyc.gov or by phone at (212) 393-2253.

A separate service notice will be posted regarding waivers of Civil Penalties.

POST UNTIL: June 29, 2018

UPCOMING CHANGE

Civil Penalties Increased for Work Without a Permit

Recent legislation, on December 28, 2017, has increased the civil penalties for Work Without a Permit violations.

Penalty for Work Without a Permit Violations

- *Penalty for Work Without a Permit on a one- or two-family dwelling*
The penalty for Work Without a Permit violation is **increased to six times the amount of the fee payable for the permit** and the minimum has increased to **\$600** with a maximum penalty of **\$10,000**.
- *Penalty for Work Without a Permit on other than a one- or two-family dwelling*
The penalty for Work Without a Permit violation is increased to **twenty one times the amount of the fee payable for the permit** and the minimum has increased to **\$6,000** with a maximum penalty of **\$15,000**.

Payment of Civil Penalties

- Penalties for **Work Without a Permit** violations are paid at the respective Borough Office where the notice of violation was issued.
- The Department accepts credit cards, certified bank checks, or money orders for the payment of penalties.

For general payment questions, please contact the Department's Cash Receipts Unit by email at cashreceipts@buildings.nyc.gov or by phone at (212) 393-2253.

A separate service notice will be posted regarding waivers of Civil Penalties.

POST UNTIL: June 29, 2018

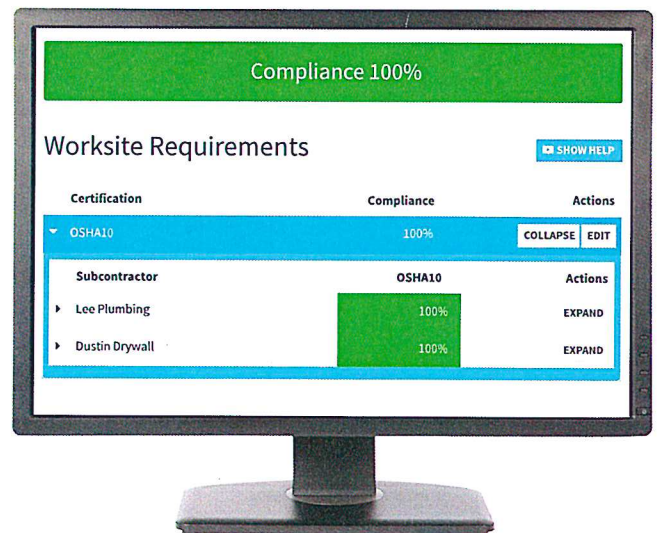
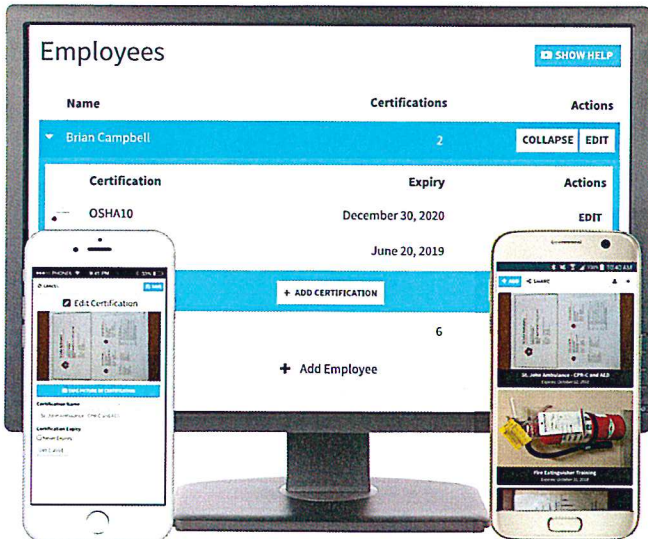


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