



## Is New York City a powder keg for fatal but preventable building failures?

*By Terence O'Brien*

The horrific condo collapse in Surfside, Florida, leading to 98 deaths, should make us pause and reflect on the safety of our buildings and infrastructure. This tragedy sparked responses by policymakers urging more regulation by way of stricter building codes and stronger oversight including more frequent inspections. Buildings and infrastructure have failed many times over the last 15 years around the country. But let's hope that Surfside was an anomaly and not the beginning of a disturbing and regular trend.

New York City has a strict—some say burdensome—Construction Code. But NYC arguably has the strongest codes with the specific goal to enhance safety; therefore, most of the burdensome requirements are justified. Much of the Construction Code focuses on the design and construction phases, not necessarily maintenance of existing buildings which have been around for 20+ years. City electeds and the NYC Department of Buildings, as well as industry professionals, should be commended for all the work done on these comprehensive—and leading—NEW building construction codes.

With that said, policymakers have a tendency to react to a problem in the aftermath of tragedy rather than foresee an issue and implement proactive measures. For example, the NYC Council passed gas safety laws following two deadly gas explosions in East Harlem and East Village in 2014 and 2015 respectively. However, there are still some gaps in our Construction Code for the one million+ buildings in NYC.

New York's policymakers may not be unique in their response to tragedies but NYC is unique in other ways, so why aren't we engaging in more preventative measures rather than being on the defensive? Many industry associations warn policymakers about potential building integrity and construction safety concerns based on unclear Codes or the lack of regulation, or sometimes due to the absence of enforcement (which may be based on manpower or budget constraints). Many times, these associations only find themselves getting through to policymakers after something tragic has happened. Organizations like the Plumbing Foundation of NYC would rather see our trusted elected officials and regulators taking necessary steps ahead of tragedy to prevent death and injury.

Proactive action by policymakers includes strengthening and enforcing gas safety laws, like amending Local Law 152/2016 which requires inspections of building gas piping, to make it clear that the point of entry and commercial tenant spaces must be in the scope of the inspection. Additional relevant policy includes, regulating modular construction so that it is held to the same safety standards as stick-built construction, increasing fines for not installing mandatory backflow devices, or mandating testing of potable water to prevent Legionella. Policymakers are in the position to do these things BEFORE tragedy erupts.

The lives lost in the Surfside collapse, above all else, are no doubt the worst-case scenario when the integrity of a building's structure is compromised. Yes, let policymakers and experts work together to determine how to improve the built environment to prevent future occurrences, but more must be done proactively, especially when we know the consequences.

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A version of this article was published in Real Estate Weekly on September 3, 2021, available at [rew-online.com/lets-not-wait-for-disaster-to-happen-before-we-react/](https://rew-online.com/lets-not-wait-for-disaster-to-happen-before-we-react/).

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# NYC Council Moves Ahead with LL152/2016 Amendments

On September 13, 2021, the NYC Council held a hearing on several pieces of legislation related to Local Law 152 of 2016, which requires periodic inspections of building gas piping systems. Of the bills heard on September 13th, the following were related to LL152:

- Intro. No. 2259 - extending the deadlines for buildings in Community Districts 2, 5, 7, 13, and 18 in each borough from December 31, 2021 to June 30, 2022.
- Intro. No. 2321 - requiring the NYC Department of Buildings (DOB) to create a hardship program for owners unable to comply with LL152 inspection due dates.
- Intro. No. 2361 - requiring DOB to create a questionnaire related to LL152 inspections for owner feedback .
- Intro. No. 2377 - extending the physical scope of gas piping inspections.

The Plumbing Foundation submitted written and oral testimony regarding the above bills. We reiterated the industry's position that these are critical safety inspections, and any extension or hardship program considerations should be carefully balanced by the Council and DOB.

Most importantly, the Plumbing Foundation commented on the proposed language in Intro. No. 2377, which seeks to clarify the scope of the inspection. While the plumbing industry commends the Council for taking important and necessary steps to clarify what needs to be part of the inspection, we explained to the Council that the amendment falls short and rather creates confusion. The bill proposes the following language:

**§ 28-318.3.2 Scope.** At each inspection, in addition to the requirements prescribed by this article or by the commissioner, all exposed gas lines from the point of entry of gas piping into a building, through the point of connection to any equipment that uses gas supplied by such piping, including building service meters, [up to individual tenant spaces] shall be inspected for evidence of excessive atmospheric corrosion or piping deterioration that has resulted in a dangerous condition, illegal connections, and non-code compliant installations. The inspection entity shall also test all exposed gas lines from the point of entry of gas piping into a building through the point of connection to any equipment that uses gas supplied by such piping, including, but not limited to, building service meters, public spaces, hallways, corridors, [and] mechanical and boiler rooms and tenant-operated commercial kitchens with a portable combustible gas detector to determine if there is any gas leak, provided that such testing need only include [public] spaces, hallways and corridors on floors that contain gas piping or gas utilization equipment.

We explained there are several issues with the proposed language. First, the gas meter is not in the purview of DOB but governed by the NYS Public Service Commission. Second, the scope of the inspection should include all visually accessible gas piping except for inside individual dwelling units, or residential tenant spaces. The original law did not clarify that commercial tenant spaces, many of which pose an important safety threat (i.e., restaurants, etc.), must be inspected. The proposed language in 2377 only seeks to clarify (albeit confusingly) that the point of entry must be inspected, as well as gas equipment and commercial kitchens. This does not cover all the potential commercial tenant spaces that should be inspected (think: daycare facilities, educational institutions, etc.). We believe this language needs to be edited before the Council moves forward on 2377.

In addition, we testified that the following should also be included in an A version of 2377:

- Allowing licensed master plumbers (LMPs) to certify that a building contains no gas piping, otherwise an owner has to hire a more costly registered design professional to do so. Our understanding is that the DOB is also in support of this change.
- Requiring that only LMPs and those holding a gas work qualification from the Department be able to conduct inspections (to provide the 5 years' experience requirement that DOB set forth in rule).
- Requiring DOB to add to its reporting requirements any information collected by the combustible gas indicator / leak survey instrument.
- Clarifying the actions that must be taken for immediately hazardous v. nonimmediately hazardous abnormal operating conditions (AOCs).
- Reversing the DOB's lowering of a civil penalty, otherwise this is only going to incentivize continued non-compliance.

The Plumbing Foundation hopes that the Council takes these proposed revisions into careful consideration and will amend 2377 before the bill is passed into law.

We will update the industry on the status of such legislation.

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## 2021 RENEWABLE ENERGY FORUM

# The Role of Hydrogen

**Presented by The Plumbing Foundation City of New York, Inc.**

Join us for this virtual event as we discuss the role of hydrogen in the implementation of climate protection policies and to meet our carbon emission goals in NYC, and to discuss why total electrification for heating and cooking is not viable or cost efficient in NYC.

**Tuesday, November 9, 2021**  
**10am-noon**

This is a FREE Zoom event. To register, visit

**[21renewableenergyforum.eventbrite.com](https://21renewableenergyforum.eventbrite.com)**

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# Announcement from NYC DEP for Online Permits

*Please see below notice from the NYC Department of Environmental Protection, as well as the attached FAQs from DEP.*

We are pleased to announce that the major expansion of BWSO's online filing portal is live! Attached [are] FAQs for your use.

Effective August 30, 2021, the following permit types must now be submitted through PARIS:

Tap Connection	Wet Connection	Water Plug	Tap and Plug	Wet Connection and Plug	New Sewer Connection
Sewer Plug	Hydrant Flow Tests	Water Repair	Water Relay	Sewer Repair	Sewer Relay
Plumber's Self-Certification (Tap Card)					

To facilitate the successful use of the system by interested LMPs throughout the city, DEP will be scheduling a virtual information session via Zoom. The session will be held on September 7, 2021 at 2:00pm. The information session will provide a detailed walk through of the latest expansion.

If you would like further information about this session or to RSVP, please respond to this email.

We are excited about this update to the system, which we hope will improve your permitting experience. We will be sharing more details soon.

Questions? Call 718-595-3088 or email [PARIS@dep.nyc.gov](mailto:PARIS@dep.nyc.gov)



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**NYC** Environmental Protection

**THE PIPECASTER is published by the Plumbing Foundation City of New York, Inc.**

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## Can Employers Mandate the COVID Vaccine?

According to the U.S. Equal Employment Opportunity Commission (EEOC),

*The federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, subject to the reasonable accommodation provisions of Title VII and the ADA and other EEO considerations discussed below. These principles apply if an employee gets the vaccine in the community or from the employer.*



Remember, the ADA also requires that an employer maintains the confidentiality of employee medical information, such as documentation or other confirmation of the COVID-19 vaccination.

For more information, please visit:

**[www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws](http://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws)**

### THE PLUMBING FOUNDATION'S ENVIRONMENTAL STATEMENT

Since its establishment in 1986, the Plumbing Foundation has worked diligently to ensure the plumbing industry has as little a "carbon footprint" on New York City as possible. The plumbing industry has historically utilized environmentally friendly materials such as recycled cast-iron and copper piping/fittings. The Foundation will continue in its role of protecting New York City as well as being an advocate for the environment by strengthening its water/sanitary regulations and thereby reducing wasteful water consumption in the City.





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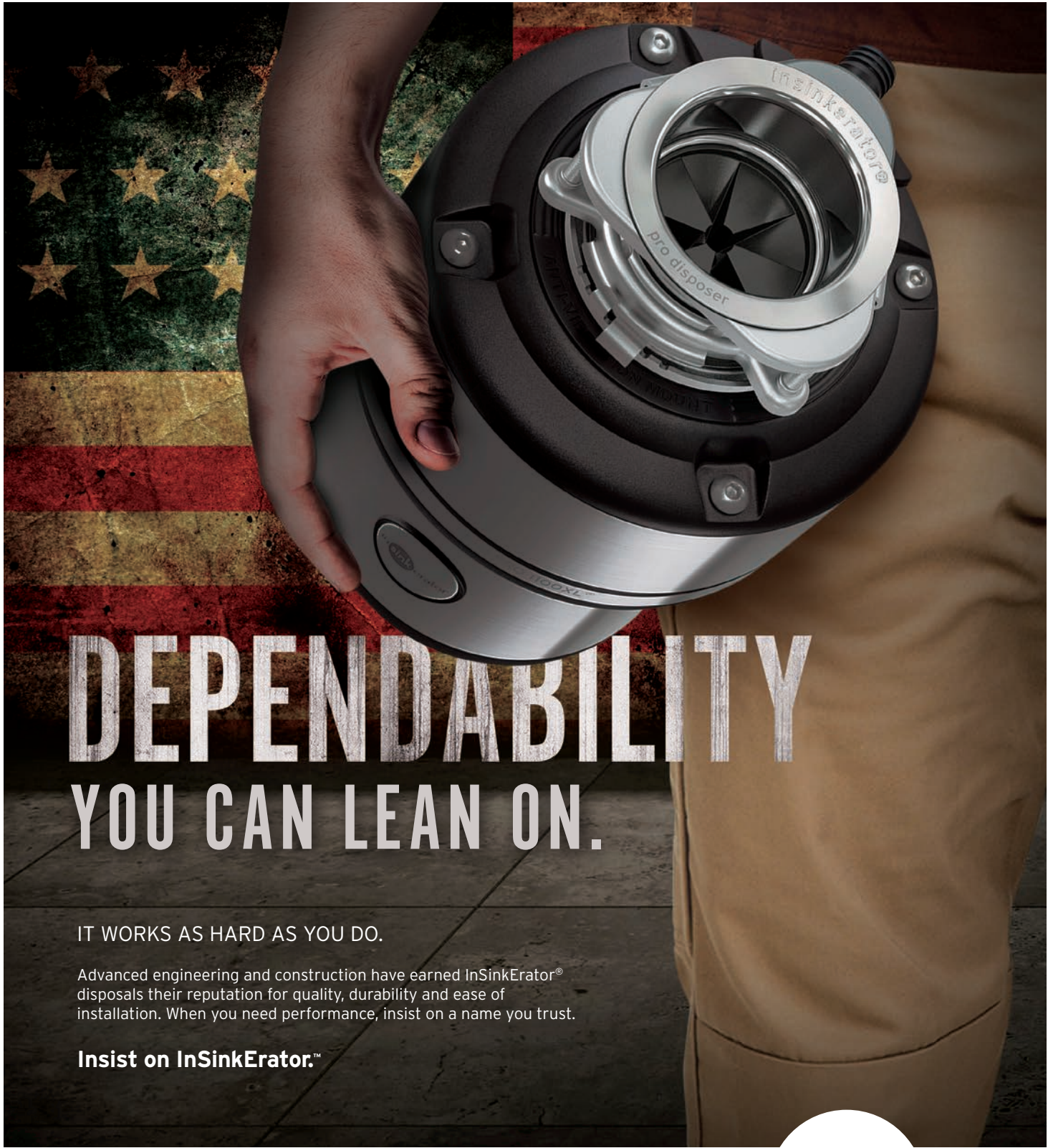
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## FREQUENTLY ASKED QUESTIONS

### PARIS eFiling Expansion

#### ACCOUNT MANAGEMENT

**Q1. When WSPS transitions to PARIS, how will I access my WSPS permits?**

A1. You will be able to access all your approved WSPS permits and tap cards in the PARIS system.

**Q2. I'm not registered for PARIS, how do I register?**

A2. For information on how to register for PARIS, please check out our website [www.nyc.gov/dep](http://www.nyc.gov/dep).

**Q3. What happens to the money in the My DEP account?**

A3. The funds in your My DEP account will continue to be available. You can use the balance towards permits not available in PARIS.

**Q4. How do I withdraw my account balance?**

A4. You can contact the Bureau of Customer Service (BCS) for more information on how to close your My DEP account. Please note that BCS has a backlog of water/sewer permits filed on paper as well as on WSPS, therefore you should keep funds in your account to cover all pending permits.

#### FILINGS

**Q1. I have pending permits in WSPS, where do I access these permits?**

A1. You will have access to your approved permits in PARIS. Objected permits must be re-filed using the PARIS system.

**Q2. I need to refile my application in PARIS, what happens to the fee paid in WSPS?**

A2. We have not withdrawn fees for objected permits, so the funds remain in your account.

**Q3. What permits can I obtain in PARIS?**

A3. You can file for the following applications on PARIS:

**Water**

- Tap Permit
- Tap & Plug Permit
- Wet Connection Permit
- Wet Connection & Plug Permit
- Water Plug
- Repair
- Relay

**Sewer**

- New Sewer Connection
- Sewer Plug
- Repair
- Relay

**Other**

- Hydrant Flow Test

**Q4. Do I need to submit my applications via email to [bwsolocaloffices@dep.nyc.gov](mailto:bwsolocaloffices@dep.nyc.gov)?**

A4. No, you can file for your permits directly in PARIS.

**Q5. How do I pay for my permits in PARIS?**

A5. In PARIS you can pay for permits using an e-check or credit card.

If you have questions or to provide feedback please email [PARIS@dep.nyc.gov](mailto:PARIS@dep.nyc.gov)



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