

# New York Codes, Rules and Regulations

## Title 19 - DEPARTMENT OF STATE

### Chapter XXXII - Division of Code Enforcement and Administration

#### Part 1203 - Uniform Code: Minimum Standards For Administration And Enforcement

#### Section 1203.3 - Minimum features of a program for administration and enforcement

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A program for administration and enforcement of either or both of the Codes shall include all features and provisions described in this section 1203.3. Each authority having jurisdiction must provide for each of the listed features through local law, ordinance, or appropriate regulation. Such authority having jurisdiction may adopt provisions for administration and enforcement that are more stringent than the minimum standards set forth in this section.

(a) Building permits.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be required for work that must conform to either or both of the Codes. Where expressly set forth in their code enforcement program, an authority having jurisdiction may exempt from the requirement for a building permit any one or more of the categories of work listed in section 1203.3(a)(1)(i) through (viii). An exemption from the requirement to obtain a building permit shall not be deemed an authorization for work to be performed in violation of either or both of the Codes. The following categories of work may be exempted from the requirement for a building permit:

(i) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;

(ii) construction of temporary sets and scenery associated with motion picture, television, and theater uses;

(iii) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(iv) installation of partitions or movable cases less than 5'-9" in height;

(v) painting, wallpapering, tiling, carpeting, or other similar finish work;

(vi) installation of listed portable electrical, plumbing, heating, ventilation, or cooling equipment or appliances;

(vii) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; and

(viii) repairs, provided that the work does not have an impact on fire and life safety, such as:

(a) any part of the structural system;

(b) the required means of egress; or

(c) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring an application for a building permit, or an amendment thereto, to include information sufficient to enable the authority having jurisdiction to determine that the intended work accords with the requirements of the Codes. An application for a building permit shall include, but not be limited to, the following information and documentation:

- (i) a description of the location, nature, extent, and scope of the proposed work;
- (ii) the tax map number and the street address of any affected building or structure;
- (iii) the occupancy classification of any affected building or structure;
- (iv) where applicable, a statement of special inspections to be prepared in accordance with the provisions of the Uniform Code;
- (v) construction documents (drawings and/or specifications), in the format and quantity acceptable to the authority having jurisdiction, prepared in compliance with section 1203.3(a)(3);
- (vi) any additional submittal documents in the format and quantity acceptable to the authority having jurisdiction as required by the applicable provisions of the Codes;
- (vii) any other information and documentation that the authority having jurisdiction may deem necessary to allow the authority having jurisdiction to determine that the proposed work conforms to the Codes.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring construction documents submitted as part of an application for a building permit to be drawn to scale on suitable material or in electronic media. The authority having jurisdiction shall not approve required construction documents unless they show in sufficient detail that they contain the information and/or documentation required by the applicable provisions of either or both of the Codes, and including but not limited to the following, where applicable:

- (i) describing the location, nature, extent, and scope of the proposed work;
- (ii) showing that the proposed work will conform to the applicable provisions of the Codes;
- (iii) showing the location, construction, size, and character of all portions of the means of egress;
- (iv) showing a representation of the building thermal envelope;
- (v) showing structural information including but not limited to braced wall designs; the size, section, and relative locations of structural members; design loads; and other pertinent structural information;
- (vi) showing the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;
- (vii) a written statement indicating compliance with the Energy Code;
- (viii) a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site; distances from lot lines; the established street grades and the proposed finished grades; and, as applicable, flood hazard areas, floodways, and design flood elevations;
- (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number; and
- (x) include any other information and documentation that the authority having jurisdiction may deem necessary to allow the authority having jurisdiction to determine that the proposed work conforms to the Codes.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2(e)(2), to examine applications for a building permit or for an amendment thereto to ascertain whether the proposed work is in conformance with the requirements of the Codes.

Construction documents and any other submittal documents approved as part of a building permit application shall be so marked in writing and by stamp, or in the case of electronic media, an electronic marking. One complete set of approved construction documents and other submittal documents shall be retained by the authority having jurisdiction. One complete set shall be returned to the applicant to be available at the work site for use by the authorized representatives of the authority having jurisdiction.

(5) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to contain a statement indicating that all work shall be performed in accordance with the approved building permit application including any supporting information and documentation, such as construction documents, written statements, submittal documents, etc. In addition, a building permit shall include a directive indicating that the building permit holder must notify the authority having jurisdiction immediately in the event of changes occurring during construction.

(6) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be issued with a specific expiration date. The authority having jurisdiction may provide that a building permit shall become invalid unless the work authorized is commenced within a specified period following issuance.

(7) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that when a building permit has been issued in error because of incorrect, inaccurate, or incomplete information, or the work for which the building permit was issued violates either or both of the Codes, such building permit shall be revoked or suspended until such time as the building permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the Codes.

(8) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be visibly displayed at the worksite and to remain visible until the project has been completed.

(b) Construction inspections.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2(e)(2), to perform construction inspections required by the Codes including those listed in this paragraph, either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the elements of the construction process conform with the applicable requirements of the Codes. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. Inspections shall include but not be limited to the following elements of the construction process, where applicable:

(i) worksite prior to the issuance of a permit;

(ii) footing and foundation;

(iii) preparation for concrete slab;

(iv) framing;

(v) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;

(vi) fire resistant construction;

(vii) fire resistant penetrations;

(viii) solid fuel-burning heating appliances, chimneys, flues, or gas vents;

(ix) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, high-performance lighting, and controls;

(x) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and

(xi) a final inspection after all work authorized by the building permit has been completed.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring work for which a permit has been issued to remain accessible and exposed until inspected and accepted by the authority

having jurisdiction and requiring building permit holders to notify the authority having jurisdiction when construction work is ready for inspection.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that after each inspection, the authority having jurisdiction shall note the work or a portion thereof to be satisfactory as completed, or the building permit holder shall be notified as to the manner in which the work fails to comply with either or both of the Codes, including a citation to the specific code provision or provisions that have not been met. The code enforcement program shall also include provisions requiring work not in compliance with applicable provisions of either or both of the Codes to remain exposed until it has been brought into compliance with the Codes, re-inspected, and found satisfactory as completed.

(c) Stop work orders.

Each authority having jurisdiction shall include in its code enforcement program provisions for the authority having jurisdiction to issue stop work orders to halt work that is determined to be contrary to provisions of either or both of the Codes, is being conducted in a dangerous or unsafe manner, is being performed without obtaining a required building permit, or when a building permit has been issued in error. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be allowed to resume.

(d) Certificates of occupancy, certificates of compliance, and temporary certificates of occupancy.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions for the authority having jurisdiction to issue a certificate of occupancy or a certificate of compliance for any work which is the subject of a building permit and required to comply with either or both of the codes and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. The code enforcement program shall provide that, except as provided in section 1203.3(d)(4), permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued, or which has been converted from one use or occupancy classification or subclassification to another, shall be granted only by issuance of a certificate of occupancy or a certificate of compliance.

(2) Each authority having jurisdiction shall include in its code enforcement program a provision that precludes the authority having jurisdiction from issuing a certificate of occupancy or a certificate of compliance until the authority having jurisdiction shall have:

(i) inspected the building, structure, or work and determined that the building, structure, or work is in compliance with all applicable provisions of the Codes;

(ii) where applicable, received and reviewed each written statement of structural observations and/or a final report of special inspections required by any applicable provisions of the Uniform Code and determined that the information in such written statement or report adequately demonstrates compliance with the applicable provision of the Uniform Code;

(iii) where applicable, received and reviewed flood hazard certifications required by any applicable provisions of the Uniform Code and determined that the information in such certifications adequately demonstrates compliance with the applicable provision of the Uniform Code;

(iv) where applicable, received and reviewed each written statement of the results of tests performed to show compliance with the Energy Code and determined that the information in such statements adequately demonstrates compliance with the applicable provision of the Energy Code; and

(v) where applicable, verified the affixation of the appropriate seals, insignias, and manufacturers' data plates as required for factory manufactured buildings and/or manufactured homes.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring a certificate of occupancy or certificate of compliance to contain the following information:

(i) the building permit number, if any;

(ii) the date of issuance of the building permit, if any;

(iii) the name, address, and tax map number of the property;

(iv) if the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;

(v) the use and occupancy classification of the structure;

- (vi) the type of construction of the structure;
- (vii) the occupant load of the assembly areas in the structure, if any;
- (viii) any special conditions imposed in connection with the issuance of the building permit;
- (ix) the signature of the official issuing the certificate of occupancy or certificate of compliance; and
- (x) the date of issuance of the certificate of occupancy or certificate of compliance.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions allowing the authority having jurisdiction to issue a temporary certificate of occupancy prior to the completion of the work that is the subject of a building permit. The code enforcement program shall provide that:

(i) A temporary certificate of occupancy shall be limited to a specified period of time during which the building permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Codes.

(ii) The temporary certificate of occupancy shall specify the portion or portions of the building or structure that may be occupied pursuant to the temporary certificate of occupancy, and any special terms or conditions of such occupancy that the authority having jurisdiction may deem to be appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure.

(iii) The temporary certificate of occupancy shall also include the information mentioned in section 1203.3(d)(3).

(iv) An authority having jurisdiction shall not issue a temporary certificate of occupancy until it determines that the following conditions are met:

(a) the structure or portions thereof may be occupied safely;

(b) any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational; and

(c) all required means of egress from the structure have been provided.

(5) Each authority having jurisdiction shall include in its code enforcement program provisions requiring a certificate of occupancy, certificate of compliance, or temporary certificate of occupancy issued in error or on the basis of incorrect information to be suspended or revoked by the authority having jurisdiction if the relevant deficiencies are not corrected within a specified period of time.

(e) Notification regarding fire or explosion.

Each authority having jurisdiction shall include in its code enforcement program procedures for the chief of any fire department providing firefighting services for a property to notify the authority having jurisdiction of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

(f) Unsafe structures and equipment and conditions of imminent danger.

Each authority having jurisdiction shall include in its code enforcement program procedures for the authority having jurisdiction to identify and address unsafe structures and equipment and conditions of imminent danger consistent with the requirements of the Uniform Code.

(g) Operating permits.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring operating permits for conducting any process or activity or for operating any type of building, structure, or facility listed in this paragraph as follows:

(i) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

(ii) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS listed and described in section 1203.3(g)(1)(ii) as follows:

(a) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;

(b) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;

(c) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

(d) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

(e) Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

(f) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

(g) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

(h) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

(i) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;

(j) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;

(k) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;

(l) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

(m) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle.

(iii) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(iv) buildings containing one or more assembly areas;

(v) outdoor events where the planned attendance exceeds 1,000 persons;

(vi) facilities that store, handle or use hazardous production materials;

(vii) parking garages as defined in section 1203.3(j);

(viii) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the authority having jurisdiction; and

(ix) other processes or activities or for operating any type of building, structure, or facility at the discretion of the authority having jurisdiction.

(2) Where specifically identified in their code enforcement program, an authority having jurisdiction may exempt from the requirement for an operating permit the processes or activities, or the buildings, structures, or facilities listed in section 1203.3(g)(1), provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 1203.3(h), and condition assessments are performed in compliance with section 1203.3(j), as applicable. Neither this paragraph nor the provisions of the code enforcement program of the authority having jurisdiction that implement this paragraph shall limit or impair the right of the authority having jurisdiction to take any other enforcement action, including but not limited to those specified in section 1203.5 of this Part, as may be necessary or appropriate in response to any citation of non-compliance found during a fire safety and property maintenance inspection.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring parties who propose to undertake the types of activities or operate the types of buildings listed in section 1203.3(g)(1), and not otherwise exempted by section 1203.3(g)(2), to obtain an operating permit prior to commencing such

activity or operation. The code enforcement program shall also include provisions requiring an application for an operating permit to contain sufficient information to enable a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2(e)(2), to perform an inspection of the premises prior to the issuance or renewal of an operating permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fails to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

(5) Where specifically identified in their code enforcement program, an authority having jurisdiction may allow a single operating permit to apply to more than one hazardous activity.

(6) Each authority having jurisdiction shall include in its code enforcement program provisions for operating permits to remain in effect until reissued, renewed, or revoked and shall be issued for a specified period of time consistent with local conditions, but in no event to exceed:

(i) 180 days for tents, special event structures, and other membrane structures;

(ii) 60 days for alternative activities at a sugarhouse;

(iii) three years for the activities, structures, and operations determined per section 1203.3(g)(1)(ix), and (iv) one year for all other activities, structures, and operations identified in section 1203.3(g)(1).

(7) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2(e)(1) or 1203.2(e)(2), to revoke or suspend an operating permit where a process or activity, or the operation of any type of building, structure, or facility does not comply with applicable provisions of the Uniform Code.

(h) Fire safety and property maintenance inspections.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2(e)(1) or 1203.2(e)(2), to perform fire safety and property maintenance inspections either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the premises conform with the applicable requirements of the Codes. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. Fire safety and property maintenance inspections shall be performed at intervals consistent with local conditions, but in no event shall such intervals exceed:

(i) one year for buildings which contain an assembly area;

(ii) one year for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining or recreational facilities; and

(iii) three years for multiple dwellings and all nonresidential occupancies.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that after each inspection, the authority having jurisdiction shall note the premises as satisfactory, or the owner and operator shall be notified as to the manner in which the premises fails to comply with the Uniform Code, including a citation to the specific Uniform Code provision or provisions that have not been met.

(3) Nothing in this subdivision shall require or be construed to require regular, periodic inspections of (A) owner-occupied one and two-family dwellings, or (B) agricultural buildings used directly and solely for agricultural purposes, provided, however, that this shall not be a limitation on inspections conducted at the invitation of the

owner or occupant, or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

(4) In the case of a building referred to in section 1203.3(h)(1)(ii), an authority having jurisdiction may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of an inspection performed by the authority having jurisdiction or an individual or entity contracted by the authority having jurisdiction, provided that

(i) the authority having jurisdiction satisfies itself that the individual performing such inspection satisfies the requirements set forth in section 1203.2(e)(1) or 1203.2(e)(2);

(ii) the authority having jurisdiction satisfies itself that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

(iii) such inspections are performed no less frequently than once a year;

(iv) a true and complete copy of the report of each such inspection is provided to the authority having jurisdiction; and

(v) upon receipt of each such report, the authority having jurisdiction takes the appropriate action prescribed by paragraph (2) of this subdivision or verifies the authorized entity performing the inspection has taken the appropriate action consistent with paragraph (2) of this subdivision.

(i) Procedure for complaints. Procedures shall be established for addressing bona fide complaints which assert that buildings, structures, conditions, or activities fail to comply with either or both of the Codes or with local laws, ordinances, or regulations adopted for administration and enforcement of the either or both of the Codes. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the buildings, structures, conditions, and/or activities alleged to be in violation.

(j) Condition assessments of parking garages.

(1) General. Each authority having jurisdiction shall include in its code enforcement program provisions requiring condition assessments of parking garages. Such provisions shall include, at a minimum, the requirements and features described in this subdivision.

(2) Definitions. For the purposes of section 1203.3(j), the following terms shall be deemed to have the meanings shown in this paragraph:

(i) Condition assessment. An on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure.

(ii) Deterioration. The weakening, disintegration, corrosion, rust, or decay of any structural element or building component or any other loss of effectiveness of a structural element or building component.

(iii) Parking garage. Any building or structure, or part thereof, in which any structural level, or part thereof is used for parking or storage of motor vehicles, excluding:

(a) buildings in which the only level used for parking or storage of motor vehicles is entirely supported on soil or engineered fill, and not supported on structural framing;

(b) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

(c) a townhouse unit with attached parking exclusively for such unit.

(iv) Professional engineer. An individual who is licensed or otherwise authorized under article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations.

(v) Responsible professional engineer. The professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report.

(vi) Unsafe condition. The conditions identified as unsafe in sections 304.1.1, 305.1.1, and 306.1.1 of the PMCNYS.



- (vii) Unsafe structure. A structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (3) Condition assessments - general requirements. The owner or operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in section 1203.3(j)(4), periodic condition assessments as described in section 1203.3(j)(5), and such additional condition assessments as may be required under section 1203.3(j)(6). Each condition assessment shall be conducted by or under the direct supervision of a responsible professional engineer. A written report of each condition assessment shall be prepared and provided to the authority having jurisdiction, in accordance with the requirements of section 1203.3(j)(7). Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.
- (4) Initial condition assessment. Each parking garage shall undergo an initial condition assessment as follows:
- (i) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
  - (ii) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
    - (a) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
    - (b) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
    - (c) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.
- (5) Periodic condition assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed the lesser of:
- (i) three years; or
  - (ii) at such shorter period as may be fixed by the authority having jurisdiction in its code enforcement program.
- (6) Additional condition assessments.
- (i) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under section 1203.3(j)(5), the authority having jurisdiction shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
  - (ii) If the authority having jurisdiction becomes aware of any new or increased deterioration which, in the judgment of the authority having jurisdiction, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under section 1203.3(j)(5), the authority having jurisdiction shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the authority having jurisdiction to be appropriate.
- (7) Condition assessment reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the authority having jurisdiction within such time period as fixed by the authority having jurisdiction. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:
- (i) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
  - (ii) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
  - (iii) an evaluation and description of the unsafe conditions;

(iv) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(v) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(vi) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(vii) the responsible professional engineer's recommendation regarding preventative maintenance;

(viii) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(ix) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

(8) The authority having jurisdiction shall review each condition assessment report. The authority having jurisdiction shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the authority having jurisdiction shall, by order to remedy or such other means of enforcement as the authority having jurisdiction may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to section 1203.3(j)(7)(ii) and section 1203.3(j)(7)(iii). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. Neither this paragraph nor the provisions of the code enforcement program of the authority having jurisdiction that implement this paragraph shall limit or impair the right of the authority having jurisdiction to take any other enforcement action, including but not limited to placing a do not occupy order or suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(9) The authority having jurisdiction shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the authority having jurisdiction with a written statement attesting to the fact that he or she has been so engaged, the authority having jurisdiction shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The authority having jurisdiction shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(10) Neither this subdivision nor the provisions of the code enforcement program of the authority having jurisdiction that implement this subdivision shall limit or impair the right or the obligation of the authority having jurisdiction:

(i) to perform such construction inspections as are required by the stricter of section 1203.3(b) or the code enforcement program of the authority having jurisdiction;

(ii) to perform such periodic fire safety and property maintenance inspections as are required by the stricter of section 1203.3(h) or the code enforcement program of the authority having jurisdiction; and/or

(iii) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the authority having jurisdiction by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

(11) The use of the term responsible professional engineer in this subdivision shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

(k) Climatic and Geographic Design Criteria. The city, town, and village responsible for administration and enforcement of the Uniform Code shall establish and make available climatic and geographic design criteria as required by the Uniform Code. This includes, but is not limited to:

- (1) Establishing design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
- (2) Establishing heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
- (3) Establishing flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
  - (i) the accompanying Flood Insurance Rate Map (FIRM);
  - (ii) Flood Boundary and Floodway Map (FBFM); and
  - (iii) related supporting data along with any revisions thereto.

(l) Recordkeeping. A system of records of the features and activities specified in section 1203.3(a) through section 1203.3(k) and of fees charged and collected, if any, shall be established and maintained.

Amended New York State Register August 29, 2018/Volume XL, Issue 35, eff. 8/29/2018

Adopted New York State Register December 29, 2021/Volume XLIII, Issue 52, eff. 12/30/2021



## City of Rochester

Fire Department  
185 Exchange Boulevard, Suite 669  
Rochester, New York 14614-2124  
[www.cityofrochester.gov](http://www.cityofrochester.gov)

Fire Marshal

To whom it may concern:

February 26, 2020

In 2018, New York State made changes to Title 19 NYCRR Part 1203, requiring an operating permit for parking garages. As part of this process, a Condition Assessment (CA) must be performed by a registered professional engineer. The CA schedule for parking garages spans a (3) year time frame based on the year the garage was built. If the garage was built prior to January 1, 1984, the CA was due by October 2019. If the garage was built between January 1, 1984 and December 31, 2002, the inspection is due by October 1, 2020; and between January 1, 2003 and October 1, 2019, the inspection is due by October, 2021. **The Rochester Fire Department Fire Marshal's office will oversee this program.**

We are aware that there may be some parking garages, which are overdue for the required Condition Assessment. Fire Safety Inspector Brian Anten will work with parking garage owners to rectify this situation. For the full text of the law go to:

<https://www.dos.ny.gov/DCEA/2018-726%20Rule%20Text%201203.3%20parking%20garage.pdf>

A summary of the CA report shall be submitted to the RFD. Refer to the enclosed **Parking Garage – Operating Permit Requirements** for detailed information. This summary must have the responsible professional engineer's signature and seal.

The full CA report shall be available for review as part of the annual permit process. The owner of the parking garage is required to provide documentation that the deficiencies were corrected within the time frame noted on the report or risk the operating permit being withdrawn.

The **Parking Garage Operating Permit Requirements** explains the information that shall be included in the CA report. After reviewing this report and reviewing any additional reports, certain repairs may be required before the operating permit is issued. The cost of this permit is \$200 per year, whereas, the CA and summary are required every three (3) years.

In addition to the CA Report, any parking garage with a standpipe system will need to meet the requirements of the **Parking Garage Standpipe Identification System**. Refer to the enclosed document for specific requirements. This identification system must be in place prior to your yearly inspection.

Parking garages are required to have their fire protection systems (standpipe system, sprinkler system, fire extinguishers, etc.) inspected annually and properly maintained by a qualified professional. For additional information please contact Inspector Brian Anten at (585) 428-6380 or [brian.anten@cityofrochester.gov](mailto:brian.anten@cityofrochester.gov).

Thank you,

Christine A. Schryver, Fire Marshal  
City of Rochester Fire Department







## Parking Garages – Operating Permit requirements

### Overview:

- The owner or designee shall obtain an annual Operating Permit (OP) from the Rochester Fire Department
- Dependent on the year garage was constructed, the owner or designee shall have available a condition assessment (CA) report to include an executive summary that is sealed and signed by a professional engineer (PE)
- PE shall prepare, or supervise the preparation of a written report of each CA, and shall submit the CA report with affixed PE seal to the Authority having jurisdiction (AHJ).

### Initial Condition Assessment:

The Initial condition assessment shall provide all the information required of a condition assessment as well as the following addition information.

- Description of the garage (Construction type, exits and entrances, number parking spots and other descriptive information)
- History of the garage
- Overview of previous significant structural and preventative maintenance and repairs since it was constructed

**New parking garages** shall undergo an **initial condition assessment** upon construction completion and prior to the issuance of a certificate of occupancy or certificate of compliance.

**Existing parking garages** shall undergo an **initial condition assessment** as follows:

- If originally constructed prior to 1/1/1984, initial assessment shall be completed prior to 10/1/2019
- If originally constructed between 1/1/1984 and 12/31/2002, initial assessment shall be completed prior to 10/1/2020
- If originally constructed between 1/1/2003 and 8/29/2018, initial assessment shall be completed prior to 10/1/2021

### Periodic Condition Assessment:

Following the initial condition assessment, it shall be the PE's responsibility to make a recommendation regarding the time in which the next CA of the parking garage or portions thereof is to be conducted. The interval of "PE's recommended time frame" shall not to exceed three (3) years. The PE shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements and any other factors deemed relevant by the responsible PE's professional judgement.





#### Condition Assessment Report Requirements:

1. **RESPONSIBILITY:** The responsible PE shall prepare, or directly supervise the preparation of a written report of each condition assessment, and shall submit such condition assessment report to the Fire Marshal's with a license stamp.
2. **OVERVIEW:** A brief overview /history of the garage ( Date constructed, square footage number of spots and graphic(s) showing basic site plan)
3. **ASSESSMENT AND DESCRIPTIONS:** An assessment and a description of the extent of deterioration and or the conditions causing deterioration that could result in an unsafe condition or unsafe structure.
4. **ELEMENTS ASSESSED:** The assessment shall address the following elements at minimum;
  - **STRUCTURAL SYSTEMS** (Columns, Beams, Slabs (decks))
  - **ARCHITECTURAL SYSTEMS** (Walls, Vehicle Barriers, Facade, Stairs, Elevator Enclosures (elevator inspection remains a separate inspection)
  - **WATERPROOFING ELEMENTS** (Expansion Joints, Waterproofing Membranes & Sealants)
  - **MECHANICAL/ELECTRICAL/PLUMBING SYSTEMS**
    - Addressing only those items that if not addressed would pose a life safety hazard and or might impact structural integrity
5. **ASSESSMENT CATEGORIES:** The assessment shall categorize conditions observed regarding the above elements as needing;
  - i. **IMMEDIATE REMEDIATION:** Reported in the Condition Assessment shall be an evaluation and description of the extent of deterioration and conditions that, in the opinion of the responsible PE, the structure or a portion of the structure should IMMEDIATELY stop being operational. The determination that there are components of either an unsafe structure or an unsafe condition qualifies as an item of immediate remediation. This condition shall be addressed immediately and initial remediation measures will be started within 48 hours. The structure, or portions of the structure, will be closed to operation immediately as well. In the event of an immediate remediation, the following personnel shall be immediately notified;
    - a. Property Owner/Representative (if not on site during inspection)
    - b. Rochester Fire Department Fire Safety Rep/Fire Marshal
    - c. Rochester Building Permit DepartmentThis condition(s) shall be documented in the CA report even though the above listed personnel will already be aware of the situation.

Initial remediation shall include the priority protection of life and property as well as shutting down the structure or portion of the structure. The amount to be shut down is to be determined by a PE and should be done to a limit that the structure is safe, and/or no unsafe condition(s) remains. Once measures are taken to protect life and property, measures to temporarily fix/brace the identified element(s) will be taken within the time period of 7 days, unless otherwise determined by the PE. A permanent fix/repair for the identified element(s) shall be completed within a time period of 180 days and shall replace the previous temporary measures taken, unless documentation from the PE modifies the remediation level. All remediation steps taken involving the unsafe structure or condition shall be under direct supervision of a PE. The permanent fix shall be certified by a PE and the AHJ prior to reopening/reusing.



- ii. **PRIORITY REMEDIATION:** Reported in the Condition Assessment shall be an evaluation and description of the extent of deterioration and condition that, in the opinion of the PE, requires remediation within a three year period or less. It is the responsibility of the PE to determine the timeframe for remediation and the remediation strategy depending on the severity of deterioration. All remediation for this level must be completed within the determined timeframe and/or prior to the next Condition Assessment. Elements that fall into this category do not meet the required severity of the Immediate Remediation but do hold the severity of being remediated in accordance to the timeline provided by the PE.
  - iii. **PREVENTATIVE REMEDIATION:** Reported in the Condition Assessment shall be an evaluation and description of the extent of deterioration and condition that, in the opinion of the PE, should be evaluated and/or monitored to prevent any further deterioration or any condition(s) that cause deterioration. The evaluation time frame or monitoring frequency would be determined by the responsible PE and should be addressed within a period determined by the PE.
6. **CORRECTIVE OPTIONS / TIME FRAME FOR REMEDATION:** An evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause the deterioration, and unsafe conditions.
  7. **EVALUATION ASSOCIATED WITH RISKS:** An evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deteriorations, and unsafe conditions.
  8. **RECOMMENDATIONS FOR PREVENTATIVE MAINTENANCE:** The PE shall make recommendations, including recommended time frame for completion, regarding preventative maintenance
  9. **SCHEDULING OF WORK:** The CA shall include a listing of the work that has been completed and/or scheduled since the prior CA Report.
  10. **REPAIR WORK:** All repair work shall require a "follow up" report describing the work completed and how it effects the current status of the structure. This report is to be attached to the Condition Assessment in which the time frame of the repair work it falls or addressed. Any repair work that has been identified as requiring "IMMEDIATE REMEDIATION" shall require a PE's report upon completion. That report is to be reviewed by the AHJ prior to reusing that portion of the structure.

#### Additional Conditional Assessments

Additional assessment shall be required by the AHJ if:

- the PE conducting latest CA has a recommendation for such an assessment
- new or increased deterioration is discovered which in the judgement of the AHJ, requires assessment prior to the regular CA cycle

For specific information regarding parking garages refer to pages 3 – 10 of the Rule Text:

<https://www.dos.ny.gov/dcea/pdf/2018-2-22-Rule-Text-1203.3-parking.pdf>.

For additional information please contact:

Firefighter Brian Anten (Program coordinator): [Brian.Anten@CityofRochester.gov](mailto:Brian.Anten@CityofRochester.gov)

Captain Edward Kuppinger: [Edward.Kuppinger@CityofRochester.gov](mailto:Edward.Kuppinger@CityofRochester.gov)

Captain Arthur Kucewicz: [Arthur.Kucewicz@CityofRochester.gov](mailto:Arthur.Kucewicz@CityofRochester.gov)

## Parking Garage Standpipe Identification System

The Parking Garage Standpipe Identification System is a color coded system to allow easy identification by firefighters.

The Standpipe marking system shall meet the requirements listed below:

- It shall be a **REFLECTIVE** material
- Color coding shall consist of 2 colors. Red shall be the top color. The secondary color can be yellow or white.
- The colors shall alternate.
- The markings shall be a minimum of 6 inches in height.
- The color coding shall cover the circumference of the standpipe in 1 piece
- Bottom edge of the color coding is to be approx. 84 inches from garage floor (must be visible over the tallest vehicle)

Any questions, please feel free to contact Inspector Brian Anten at 585-428-6380 or [Brian.Anten@cityofrochester.gov](mailto:Brian.Anten@cityofrochester.gov)

Examples of acceptable materials:

