

Paragraph (1) of subdivision (g) of section 1203.3 of Title 19 NYCRR is amended to read as follows:

(g) Operating permits.

(1) Operating permits shall be required for conducting [the activities or using the categories of buildings listed below] any activity listed in subparagraph (i), (ii), or (iii) below or operating any type of building or structure listed in subparagraphs (iv), (v), or (vi) below:

(i) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in tables [2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4), of the Fire Code of New York State (see Part 1225 of this Title)] 5003.1.1(1), 5003.1.1(2), 5003.1.1(3) or 5003.1.1(4) of the 2015 edition of the International Fire Code (a publication currently incorporated by reference in Part 1225 of this Title);

(ii) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(iii) use of pyrotechnic devices in assembly occupancies;

(iv) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; [and]

(v) parking structures as defined in subdivision (j) of this section; and

[(v)] (vi) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the government or agency charged with or accountable for administration and enforcement of the Uniform Code.

Subdivision (j) of section 1203.3 of Title 19 NYCRR is renumbered subdivision (k) and a new subdivision (j) is added to read as follows:

(j) Condition assessments of parking structures.

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

(2) Definitions. For the purposes of this subdivision:

(i) the term “authority having jurisdiction” means the city, town, village, county, State agency or other governmental unit or agency responsible for administration and enforcement of the Uniform Code with respect to a parking structure;

(ii) the term “condition assessment” means an on-site inspection and evaluation of a parking structure for evidence of deterioration of any structural element or building component of such parking structure, evidence of the existence of any unsafe condition in such parking structure, and evidence indicating that such parking structure is an unsafe structure;

(iii) the term “deterioration” means 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 component;

(iv) the term “professional engineer” means 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 qualifications deemed by the authority having jurisdiction to be appropriate for the purposes of performing condition assessments of parking structures;

(v) the term “parking structure” means any building or structure, or part thereof, in which all or any part of any structural level or levels 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 a slab on grade;

(b) detached one- and two-family dwellings and accessory structures to such dwellings;
and

(c) townhouses and accessory structures to such townhouses;

(vi) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the 2015 edition of the International Property Maintenance Code (a publication currently incorporated by reference in Part 1226 of this Title);
and

(vii) the term “unsafe structure” means 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 structure shall cause such parking structure to undergo an initial condition assessment as described in paragraph (4) of this subdivision, periodic condition assessments as described in paragraph (5) of this subdivision, and such additional condition assessments as may be required under paragraph (6) of this subdivision. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer (the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, is hereinafter referred to as the “responsible professional engineer” for such condition assessment).

A written report of each condition assessment shall be prepared, and provided to the authority having jurisdiction, in accordance with the requirements of paragraph (7) of this subdivision.

Before performing a condition assessment (other than the initial condition assessment) of a parking structure, the responsible professional engineer for such condition assessment shall review all previous condition assessment reports for such parking structure.

(4) Initial condition assessment. Each parking structure shall undergo an initial condition assessment of such parking structure no later than the later of:

(i) three (3) years after the date of completion of the original construction of the parking structure, or

(ii) one hundred eighty (180) days after the effective date of the rule adding this subdivision to 19 NYCRR section 1203.3.

(5) Periodic condition assessments. Following the initial condition assessment of a parking structure, such parking structure shall undergo periodic condition assessments at intervals not to exceed the lesser of:

(i) three (3) 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 any condition assessment report for a parking structure includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking structure, or any portion of such parking structure, be performed before the date by which the next periodic condition assessment would be required under paragraph (5) of this subdivision, the authority having jurisdiction shall require the owner or operator of such parking structure to

cause such parking structure (or, if applicable, the portion of such parking structure 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 structure, or of the portion of the parking structure affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under paragraph (5) of this subdivision, the authority having jurisdiction shall require the owner or operator of such parking structure to cause such parking structure (or, if applicable, the portion of the parking structure 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 for such parking structure, 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 structure should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking structure should be performed, the responsible professional engineer shall consider the parking structure's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, and 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 promptly after it is submitted. 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 structure to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to subparagraphs (ii) and (iii) of paragraph (7). 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 suspension or revocation of a parking structure'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 structure. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking structure, 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 structure (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 structure 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 subdivision (b) of this section 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 subdivision (h) of this section 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.

Newly renumbered (k) of section 1203.3 of Title 19 NYCRR is amended to read as follows:

(k) Recordkeeping.

A system of records of the features and activities specified in subdivisions (a) through [(i)] (j) of this section and of fees charges and collected, if any, shall be established and maintained.