

19 CRR-NY 1203.3
NY-CRROFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 19. DEPARTMENT OF STATE
CHAPTER XXXII. DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION
PART 1203. UNIFORM CODE: MINIMUM STANDARDS FOR ADMINISTRATION AND ENFORCEMENT19 CRR-NY 1203.3
19 CRR-NY 1203.3**1203.3 Minimum features of a program for administration and enforcement of the Uniform Code.**

A program for administration and enforcement of the Uniform Code shall, include all features described in subdivisions (a) through (j) of this section. A government or agency charged with or accountable for administration and enforcement of the code must provide for each of the listed features through legislation or other appropriate means.

(a) Building permits.

(1) Building permits shall be required for work which must conform to the Uniform Code. A government or agency charged with or accountable for administration and enforcement of the Uniform Code may exempt from the requirement for a permit the categories of work listed in subparagraphs (i) through (xii) of this paragraph. An exemption from the requirement to obtain a permit shall not be deemed an authorization for work to be performed in violation of the Uniform Code. The following categories of work may be excluded 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 (13.88m²);

(ii) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(iii) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(iv) installation of fences which are not part of an enclosure surrounding a swimming pool;

(v) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(vi) construction of temporary motion picture, television and theater stage sets and scenery;

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

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

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

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

(xi) 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

(xii) repairs, provided that such repairs do not involve:

(a) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component;

(b) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;

(c) the enlargement, alteration, replacement or relocation of any building system;

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

(2) An application for a building permit shall request sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code and shall require submission of the following information and documentation:

- (i) a description of the proposed work;
- (ii) the tax map number and the street address;
- (iii) the occupancy classification of any affected building or structure;
- (iv) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (v) at least two sets of construction documents (drawings and/or specifications) that define the scope of the proposed work.

(3) Construction documents shall not be accepted as part of an application for a building permit unless such documents:

- (i) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
- (ii) indicate with sufficient clarity and detail the nature and extent of the work proposed;
- (iii) substantiate that the proposed work will comply with the Uniform Code and the State Energy Conservation Construction Code;
- (iv) where applicable, include a site plan that shows any existing and proposed structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the structures and the lot lines.

(4) Applications for a building permit or for an amendment thereto shall be examined to ascertain whether the proposed construction is in substantial conformance with the requirements of the Uniform Code. Provisions shall be made for construction documents accepted as part of a permit application to be so marked in writing or by stamp. One set of accepted construction documents shall be retained by the government or agency charged with or accountable for administration and enforcement of the code. One set shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement official.

(5) A building permit shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application. In addition, a permit shall include the directive that the government or agency responsible for enforcement of the code shall be notified immediately in the event of changes occurring during construction.

(6) Building permits shall be issued with a specific expiration date. A local government or agency responsible for enforcement of the Uniform Code may provide that a permit shall become invalid unless the work authorized is commenced within a specified period following issuance.

(7) When a building permit has been issued in error because of incorrect, inaccurate or incomplete information, or the work for which the permit was issued violates the Uniform Code, such permit shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the code.

(8) Building permits shall be required to be visibly displayed at the work site and to remain visible until the project has been completed.

(b) Construction inspections.

(1) Permitted work shall be required to remain accessible and exposed until inspected and accepted by the government or agency enforcing the Uniform Code. Permit holders shall be required to notify the government or agency when construction work is ready for inspection.

(2) Provisions shall be made for inspection of the following elements of the construction process, where applicable:

- (i) work site prior to the issuance of a permit;
- (ii) footing and foundation;
- (iii) preparation for concrete slab;
- (iv) framing;
- (v) building systems, including underground and rough-in;

- (vi) fire resistant construction;
- (vii) fire resistant penetrations;
- (viii) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (ix) energy code compliance; and
- (x) a final inspection after all work authorized by the building permit has been completed.

(3) After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code. Construction work not in compliance with code provisions shall be required to remain exposed until it has been brought into compliance with the code, been reinspected, and been found satisfactory as completed.

(c) Stop work orders.

Stop work orders shall be used to halt work that is determined to be contrary to provisions of the Uniform Code, or is being conducted in a dangerous or unsafe manner, or is being performed without obtaining a required permit. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be permitted to resume.

(d) Certificates of occupancy; certificates of compliance.

(1) A certificate of occupancy or a certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or a certificate of compliance.

(2) Issuance of a certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, a written statement of structural observations and/or a final report of special inspections, prepared in accordance with the provisions of the Uniform Code, must be received prior to the issuance of the certificate. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the Uniform Code must be received prior to the issuance of the certificate. A certificate of occupancy or certificate of compliance shall contain the following information:

- (i) the building permit number, if any;
- (ii) the date of issuance of the permit, if any;
- (iii) the name, address and tax map number of the property;
- (iv) if the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued;
- (v) the use and occupancy classification of the structure;
- (vi) the type of construction of the structure;
- (vii) the assembly occupant load of the structure, if any;
- (viii) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (ix) any special conditions imposed in connection with the issuance of the building permit; and
- (x) the signature of the official issuing the certificate and the date of issuance.

(3) Temporary occupancy. A certificate allowing temporary occupancy of a structure may not be issued prior to the completion of the work which is the subject of a building permit unless the structure or portions thereof may be occupied safely, any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and all required means of egress from the structure have been provided. The effectiveness of a temporary certificate shall be limited to a specified period of time during which the permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Uniform Code.

(4) A certificate of occupancy or certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within a specified period of time.

(e) Notification regarding fire or explosion.

Procedures shall be established for the chief of any fire department providing fire fighting services for a property to notify the code enforcement official of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

(f) Procedures regarding unsafe structures and equipment.

Procedures shall be established for identifying and addressing unsafe structures and equipment.

(g) Operating permits.

(1) Operating permits shall be required for conducting any activity listed in subparagraph (i), (ii), or (iii) of this paragraph or operating any type of building or structure listed in subparagraph (iv), (v), or (vi) of this paragraph:

- (i) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in tables 5003.1.1(1), (2), (3) or (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 garages* as defined in subdivision (j) of this section; and
- (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.

(2) Parties who propose to undertake the types of activities or operate the types of buildings listed in paragraph (1) of this subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall contain sufficient information to permit 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.

(3) An inspection of the premises shall be conducted prior to the issuance of an operating permit.

(4) A single operating permit may apply to more than one hazardous activity.

(5) Operating permits may remain in effect until reissued, renewed or revoked or may be issued for a specified period of time consistent with local conditions.

(6) Where activities do not comply with applicable provisions of the Uniform Code, an operating permit shall be revoked or suspended.

(h) Fire safety and property maintenance inspections.

Provisions shall be made for:

- (1) fire safety and property maintenance inspections of buildings which contain an area of public assembly at intervals not to exceed one year;
- (2) fire safety and property maintenance inspections of all multiple dwellings and all nonresidential occupancies at intervals consistent with local conditions, but in no event shall such intervals exceed one year for dormitory buildings and three years for all other buildings.

(i) Procedure for complaints.

Procedures shall be established for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the conditions and/or activities alleged to be in violation of the code or the laws and/or regulations adopted for administration and enforcement of the code.

(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 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 garage;
- (ii) the term *condition assessment* means 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;
- (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 building component;

(iv) the term *parking garage* 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 on grade;
- (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;

(v) 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 at least three years of experience performing structural evaluations;

(vi) the term *responsible professional engineer* means 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;

(vii) the term *unsafe condition* includes the conditions identified as unsafe in sections 304.1.1, 305.1.1 and 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

(viii) 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 garage shall cause such parking garage 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. 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 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) New parking garages 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) Existing parking garages 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 the effective date of the rule adding this subdivision to this section, 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 paragraph (5) of this subdivision, 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 paragraph (5) of this subdivision, 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 subparagraphs (7)(ii) and (iii) of this subdivision. 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 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 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.

(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) Recordkeeping.

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

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