



Code Outreach Program – Parking Garages, Part 2: FAQ's

This edition of the Code Outreach Program answers some of the more frequently asked questions regarding *condition assessments* of *parking garages*.

[1203.3\(j\)\(2\(iv\)\)](#) of Title 19 of the New York Codes, Rules and Regulations defines the term “parking garage” as: *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.

Where do I find the language of the regulations pertaining to condition assessments of parking garages?

Title 19 Parts [1202](#), [1203](#), and [1204](#) contain the amended text (see 1202.4 (c), 1203.2 (b), 1203.3 (g), 1203.3 (j), and 1204.12 (e)).

Must a condition assessment include an entire mixed-use building or only the portions where parking occurs?

A condition assessment, as more fully described in the [November COP issue](#), is only required in the parts or portions of the building “used for the parking or storage of motor vehicles.” Other parts of the building or structure may be included in the assessment if the professional engineer performing the assessment deems those parts to be essential to the garage. For example, an inspection of the structural supports of a garage located on a second story may be included in the assessment, even if parking of vehicles does not take place in the lower level. According to the definition, a condition assessment is not required where the only level used for parking is on grade.

Is a condition assessment required in a multiple-residence use Group, such as R-2?

Yes. Parking garages accessory to one- and two-family dwellings and townhouses are exempted from the requirement for condition assessments. However, garages associated with multi-family or other R uses are not exempt.

Can an Authority Having Jurisdiction (AHJ) perform the condition assessment if qualified?

Subdivision “j” of the amended Section 1203.3 stipulates that condition assessments be performed by a “professional engineer,” which is defined in the same subdivision as an engineer licensed in New York State with at least three years of experience performing structural evaluations. An AHJ or a State Agency with construction regulations or construction authority with adequate staff meeting the requirements of Subdivision “j”, should consult with their municipal attorney or with the State Agency’s legal counsel, regarding whether performing the assessments is permissible under the municipality’s or the Agency’s Part 1203- or Part 1204-compliant code enforcement program.

Does a condition assessment take the place of a fire and property maintenance inspection?

No. A condition assessment is intended to document evidence of deterioration of structural members or building components, evidence of unsafe conditions, and evidence indicating that the garage is an unsafe structure. Certain elements of fire and property maintenance inspections will be missed by the limited scope of the condition assessment. Also, condition assessments of parking garages are required at intervals not to exceed three years, while other inspections may have other interval requirements. However, an AHJ or State Agency may find it beneficial to perform the property maintenance inspection with a copy of the condition assessment report at hand. This would enable the inspector to verify that other possible signs of deterioration were not missed in the report.

Can an AHJ require that structural engineers performing condition assessments have more than the minimum three-year experience required? Can an AHJ impose fines if a garage owner fails to obtain an operating permit or withhold operating permits if a garage owner fails to provide a signed and sealed condition assessment report?

AHJs have the authority to exceed the minimum requirements of Part [1203](#) for administration and enforcement, provided such requirements are addressed in their local laws and are not considered to be a [more restrictive standard](#) for construction under Executive Law §379. For example, an AHJ can adopt a local law that amends their code enforcement program to require the condition assessments of parking garages every two years and imposes fines if parking garages do not have valid operating permits.

Please look for our next edition of the Code Outreach Program at the beginning of next month.

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