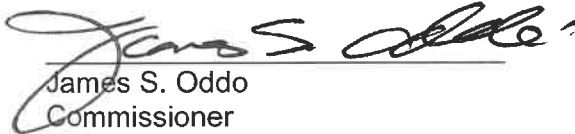


NOTICE OF ADOPTION OF RULE

K.V.

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter that the Department of Buildings hereby adopts the new rule regarding initial observation of parking structures. This rule was first published on July 28, 2023, and a public hearing thereon was held on August 30, 2023.

Dated: 10/17/23  
New York, New York

  
James S. Oddo  
Commissioner

## Statement of Basis and Purpose of Rule

Local Law 126 of 2021 added a new Article 323 regarding periodic inspections of parking structures to Title 28 of the Administrative Code. Section 28-103.16 of the Administrative Code allows the Department to require additional inspections of existing buildings and structures to ascertain compliance with the provisions of the code.

Section 103-13 was added to Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York to implement the new requirements for parking structure inspections. A new section 103-16 is now added to Subchapter C of Chapter 100 to require an additional inspection of those parking structures that must be inspected beginning January 1, 2024 or later pursuant to section 103-13. Because Local Law 126 and Section 103-13 as initially promulgated provide for a staggered schedule of regular inspections of parking structures, the Department is adding an additional inspection for those structures for which the staggered schedule would allow an unsuitable length of time before potentially unsafe conditions would be discovered and addressed. To address this, the amendment adopted herein requires that those later-scheduled parking structures be inspected once before the initial regular inspection.

In addition, an amendment to section 103-13 specifies that a Qualified Parking Structure Inspector is to complete the inspection checklist required by Section 28-323.2 of the New York City Administrative Code.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Section 28-103.16 and Article 323 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate unamended text.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Paragraph (14) of subdivision (a) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(14) Qualified parking structure inspector. An engineer as defined in section 28-101.5 of the administrative code with three years of relevant experience with [parking]building structures.

§2. Paragraph (1) of subdivision (d) of section 103-13 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(d) Annual observation. A building owner is responsible to have an annual observation performed in accordance with the provisions of section 28-323.4 of the Administrative Code. Such annual observation must be based on the checklist included in the most recent

compliance report accepted by the Department and as described in section 28-323.2 of the Administrative Code.

(1) This checklist is to be completed annually by or under the direct supervision of [the owner or by a competent person] a QPSI on behalf of the owner each year after submission of the current cycle's report has been accepted and must be filed with the next cycle's report.

§3. Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 103-16 to read as follows:

**§103-16 Initial observation of parking structures.**

(a) Prior to the first required condition assessment of a parking structure required by Article 323 of Chapter 3 of Title 28 of the Administrative Code and section 103-13 of these rules, the owner of the building in which a parking structure is located and whose condition assessment report is due as set forth in item (B) or (C) of subparagraph (v) of paragraph (4) of subdivision (c) of section 103-13 of these rules, must have a one-time initial observation of the parking structure performed by or under the direct supervision of a qualified parking structure inspector ("QPSI"), as defined in section 101-07 of these rules. The results of such initial observation must be filed with the Department by August 1, 2024 on a form provided by the Department.

Exception: Owners whose report is due as set forth in item (B) as previously referenced in this paragraph and who file an acceptable report by August 1, 2024 need not have this initial observation performed.

(b) The QPSI must apply a professional standard of care to assess the parking structure's condition and the individual building systems that comprise the parking structure including, but not limited to, the building's structural components, waterproofing systems, fire proofing and fire stopping systems, and wearing surfaces. The QPSI's observation must be based on the considerations of the type of construction of the parking structure, age of the material components, the parking structure's specific exposure to environmental conditions and the presence of specific details and appurtenances. The QPSI's observation must also take into account the structure's history of maintenance and repairs.

(c) The methods used to evaluate the parking structure in question must permit a complete examination of the parking structure.

(d) The QPSI must identify the most deleterious locations and perform examinations at those locations. If the QPSI finds any deficiencies, he/she must ascertain the cause of these and any other possible building defects detected and immediately notify the Department and the owner of the building in which the parking structure is located of any unsafe conditions.

(e) The results of this initial observation must be filed with the Department in a form and manner acceptable to the commissioner.

