

CHAPTER 3

MAINTENANCE OF BUILDINGS

ARTICLE 301 GENERAL

§28-301.1 Owner's responsibilities. All buildings and all parts thereof and all other structures shall be maintained in a safe condition. All service equipment, means of egress, materials, devices, and safeguards that are required in a building by the provisions of this code, the 1968 building code or other applicable laws or rules, or that were required by law when the building was erected, altered, or repaired, shall be maintained in good working condition. Whenever persons engaged in building operations have reason to believe in the course of such operations that any building or other structure is dangerous or unsafe, such person shall forthwith report such belief in writing to the department. The owner shall be responsible at all times to maintain the building and its facilities and all other structures regulated by this code in a safe and code-compliant manner and shall comply with the inspection and maintenance requirements of this chapter.

§28-301.2 Filing of reports in writing or electronically. Reports required to be filed under this chapter shall be filed in writing or electronically as the commissioner may require.

ARTICLE 302 MAINTENANCE OF EXTERIOR WALLS

§28-302.1 General. A building's exterior walls and appurtenances thereof shall be maintained in a safe condition. All buildings greater than six stories shall comply with the maintenance requirement of this article.

Exception: The requirements imposed by this article shall not apply to any part of an exterior wall that is less than 12 inches (305 mm) from the exterior wall of an adjacent building.

§28-302.2 Inspection requirements. A critical examination of a building's exterior walls and appurtenances thereof shall be conducted at periodic intervals as set forth by rule of the commissioner, but such examination shall be conducted at least once every five years. No later than January 1, 2009 the commissioner shall by rule establish staggered inspection cycles for buildings required to comply with this section. The initial examination for a new building shall be conducted in the fifth year following the erection or installation of any exterior wall and/or appurtenances as evidenced by the issuance date of a temporary or final certificate of occupancy or as otherwise prescribed by rule.

1. Such examination shall be conducted on behalf of the building owner by or under the direct supervision of a registered design professional with appropriate qualifications as prescribed by the department.
2. Such examination shall include a complete review of the most recently prepared report and an inspection.
3. Such examination shall be conducted in accordance with rules promulgated by the commissioner.

§28-302.3 Immediate notice of unsafe condition. Whenever a registered design professional learns of an unsafe condition through a critical examination of a building's exterior walls and appurtenances thereof, such person shall notify the owner and the department immediately in writing of such condition.

§28-302.4 Report of critical examination. The registered design professional shall submit a written report to the commissioner within 60 days of completing the critical examination, but not more than five years following submission of the preceding report of critical examination, certifying the results of such critical examination as either safe, unsafe or safe with a repair and maintenance program. The report shall clearly document the condition of the exterior walls and appurtenances thereof and shall include a record of all significant deterioration, unsafe conditions and movement observed as well as a statement concerning the watertightness of the exterior surfaces. Such report must be professionally certified by such registered design professional.

§28-302.5 Repair of exterior walls, unsafe condition. Upon the notification to the department of an unsafe condition, the owner, the owner's agent or the person in charge shall immediately commence such repairs, reinforcements or other measures as may be required to secure public safety and to make the building's exterior walls or appurtenances thereof conform to the provisions of this code.

1. All unsafe conditions shall be corrected within 90 days of filing the critical examination report.
2. The registered design professional shall reinspect the premises and file an amended report within two weeks after the repairs have been completed certifying that the unsafe conditions of the building have been corrected.
3. The commissioner may grant an extension of time of up to 90 days to complete the repairs required to correct an

unsafe condition upon receipt and review of an initial extension application submitted by the registered design professional together with such additional documentation as may be prescribed by rule.

4. The commissioner may grant further extensions of time to complete the repairs required to remove an unsafe condition upon receipt and review of an application for a further extension submitted by the registered design professional together with such further documentation as may be prescribed by rule.

§28-302.6 Safe condition with a repair and maintenance program. The registered design professional shall not file a report of a safe condition with a repair and maintenance program for the same building for two consecutive filing periods unless the second such report is accompanied by his or her professional certification attesting to the correction of all conditions identified in the prior report as requiring repair.

***ARTICLE 303 PERIODIC BOILER INSPECTIONS**

**Article 303 was amended by [Local Law 126 of 2021](#). This provision has an effective date of January 1, 2022.*

§28-303.1 General. Periodic boiler inspections shall be performed in accordance with this article and the provisions of section 1011.3 of the New York city mechanical code.

§28-303.2 Annual inspections. Except as otherwise provided in this article, each owner of a boiler, as defined in section 204 of the New York state labor law, excepting those boilers listed in subdivision five of such section of such labor law, shall have such boiler inspected at least once a year in accordance with this article. All individuals who perform periodic inspections pursuant to this article shall be qualified under section 204 of the New York state labor law and the rules promulgated by the commissioner of labor or the commissioner of buildings.

§28-303.2.1 Internal inspection required. All high pressure boilers shall have an annual internal inspection performed in accordance with section 204 of New York state labor law and the rules of the department. Where construction of a low pressure boiler allows, an internal inspection shall be performed on a periodic schedule in accordance with section 204 of the New York state labor law and the rules of the department.

§28-303.2.2 External inspection required. All high and low pressure boilers shall have an annual external inspection performed in accordance with section 204 of New York state labor law and the rules of the department. Such inspection shall include chimney connectors.

****§28-303.2.3 Electric high pressure boilers.** Electric boilers operating at pressures or temperatures classified as high pressure boilers, as defined in the New York city mechanical code, shall be annually inspected as high pressure boilers in accordance with this article.

***Section 28-303.2.3 was added by [Local Law 126 of 2021](#). This provision has an effective date of January 1, 2022*

§28-303.3 Qualifications of boiler inspectors. All individuals who perform periodic inspections pursuant to this article shall have the qualifications set forth in the rules of the department and in section 28-303.3.1 or section 28-303.3.2 of this code, as applicable.

§28-303.3.1 High-pressure boilers. Inspections required by section 28-303.2 of this code of a high-pressure boiler must be performed, in accordance with the rules of the department, on behalf of the owner, by boiler inspectors in the employ of a duly authorized insurance company who are qualified in accordance with section 204 of the New York state labor law.

§28-303.3.2 Low-pressure boilers. Inspections required by section 28-303.2 of a low-pressure boiler must be performed, in accordance with the rules of the department, on behalf of the owner, by boiler inspectors who are qualified in accordance with section 204 of the New York state labor law.

§28-303.4 Staggered inspection cycles. The commissioner may by rule establish staggered inspection cycles for buildings required to comply with this article.

§28-303.5 Repair of defects. The owner of each boiler that is subject to periodic inspection shall correct any defects identified in the annual boiler inspection.

§28-303.6 Reporting an unsafe or hazardous condition. If an inspection reveals that any boiler is unsafe or hazardous to life and safety, the device is to be immediately taken out of service by the approved boiler inspection agency performing the inspection and the building owner shall be notified. Such agency shall notify the department of the unsafe or hazardous condition of the boiler within 24 hours after the condition is discovered. Notification to the department may be made by telephone, electronically or in writing.

§28-303.7 Owner's annual boiler inspection report. The owner of each boiler that is subject to inspection pursuant to section 28-303.2 shall file a signed annual report with the commissioner in accordance with the rules of the department within 14 days after the required annual inspection of the boiler has been performed. Extensions of time to file such report may be granted in accordance with the rules of the department. The report shall include, but shall not be limited to:

1. The location of the boiler.
2. The name and address of the inspector, the qualification of the inspector to perform the inspection, the date of inspection and if the inspector is a qualified boiler inspector in the employ of a duly authorized insurance company, the policy number covering the boiler.
3. A list of all defects found in the inspection for each device inspected.

§28-303.7.1 Affirmation of correction. All defects identified in the annual boiler inspection report shall be corrected within 90 days after the date of initial inspection. The department may grant an extension of 45 days upon submission of an application by the owner demonstrating a practical difficulty in complying within the 90 day timeframe. In no case shall a single extension request be granted for more than 45 days, and no more than two such extensions be granted for a specific defect. An affirmation of correction shall be filed within 14 days of the date of correction.

§28-303.8 Scope of inspection. During required inspection and testing, in addition to any other requirements prescribed by this code or the rules of the department, all parts of the equipment shall be inspected to determine that they are in safe operating condition and that parts subject to wear have not worn to such an extent as to affect the safe and reliable operation of the boiler.

§28-303.9 Removal or discontinuance notice. The owner of a boiler that is removed or discontinued from use shall file a written notice of such removal or discontinuance with the commissioner within 30 days of the date of removal or discontinuance.

§28-303.10 Additional inspections. In addition to the inspections required by this article, the commissioner may make such additional inspections as required to enforce the provisions of this code.

§28-303.11 Fees. The owner of each boiler subject to periodic inspection pursuant to this article shall pay to the department an annual fee for each boiler in the amount prescribed by this code to cover the city's administrative and supervisory costs. The fee shall be payable at the time of the filing of the owner's annual boiler inspection report. No fee shall be charged for additional inspections made by the department pursuant to section 28-303.10.

***ARTICLE 304 ELEVATORS AND CONVEYING SYSTEMS

****Article 304 was amended by [Local Law 126 of 2021](#). This provision has an effective date of January 1, 2022.*

§28-304.1 General. Elevators and conveying systems shall be maintained in a safe condition and in accordance with ASME A17.1, as modified by appendix K of the New York city building code. Every new and existing elevator or conveying system shall be inspected and tested in accordance with this article.

§28-304.2 Elevators, escalators, moving walkways, material lifts, man lifts and dumbwaiters. Elevators, escalators, moving walkways, material lifts, man lifts and dumbwaiters shall be inspected and tested in accordance with section 28-304.6, chapter 30 of the New York city building code, and the schedule set forth in Table N1 of ASME A17.1 as modified by chapter K1 of appendix K of the New York city building code.

§28-304.3 Platform lifts, stairway chair lifts and vertical reciprocating conveyors (VRCs). Platform lifts, stairway chair lifts and VRCs shall be inspected and tested at intervals not exceeding one year. Inspections and tests shall be performed in accordance with Table N1.

§28-304.4 Amusement devices. Amusement devices shall be inspected and tested in accordance with department rules.

§28-304.5 Frequency of inspection and testing. Elevators and other conveying systems may be subject to more frequent inspection and testing as the commissioner finds necessary to protect public safety.

§28-304.6 Inspection and testing process. All devices shall be inspected and tested in accordance with Table N1 of ASME A17.1 as modified by chapter K1 of appendix K of the New York city building code and, where applicable, department rules and with sections 28-304.6.1 through 28-304.6.6 of this code.

§28-304.6.1 Inspection and testing entities. The required category tests and periodic inspections in Table N1 of ASME A17.1 as modified by chapter K1 of appendix K of the New York City building code shall be performed on behalf of the owner by an approved elevator agency in accordance with this code and department rules. Where

indicated in Table N1, tests shall be witnessed by an approved elevator agency not affiliated with the agency performing the test, and not affiliated with the agency performing the elevator work. Where indicated in Table N1, inspections shall be performed by an approved elevator agency not affiliated with the agency performing the maintenance. Not affiliated, as used in this section, shall mean the approved elevator agency owners, directors and inspectors shall be independent of all relative approved elevator agencies, maintenance firms or other entities providing any associated services to the device owner. Such other tests and inspections shall comply with the timeframes established as follows:

1. Category 1 tests shall be performed between January 1st and December 31st of each year at a minimal time interval of six months from the date of the previous Category 1 testing. Category 1 tests are required on new installations the calendar year following final acceptance test.
2. Category 3 tests for water hydraulics shall be performed every three years on or before the anniversary month of the last Category 3 testing.
3. Category 5 tests shall be performed every five years on or before the month of the final acceptance test for new elevators or the anniversary month of the last Category 5 testing.
4. Periodic inspections shall be performed between January 1 and December 31 of each year at a minimum of three months from the date of any Category 1 testing or previous periodic inspection. Initial periodic inspections on new installations shall be performed in the calendar year following the final acceptance test. For private residence elevators, the periodic inspection and category testing may be performed on the same date.

**Section 28-306.4.1 was amended by [NYS Laws of 2019 Chapter 750](#). This law has an effective date of January 1, 2022.*

§28-304.6.1.1 Department notification. The department shall be notified by the agency performing the test at least five days prior to the Category 1 testing of escalators, Category 3 testing of water hydraulic elevators and Category 5 testing of elevators, pursuant to the rules of the department.

§28-304.6.2 Scope. During periodic inspection and category testing, in addition to any other requirements prescribed by this code, all parts of the equipment shall be inspected to determine that they are in safe operating condition and that parts subject to wear have not worn to such an extent as to affect the safe and reliable operation of the installation.

§28-304.6.3 Reporting an unsafe or hazardous condition. If a periodic inspection or category test reveals that any elevator or other conveying system is unsafe or hazardous to life and safety, the device is to be taken out of service immediately by the agency performing the inspection or test and the building owner notified immediately. The performing agency shall notify the department by telephone, electronically or in writing within 24 hours.

§28-304.6.4 Periodic inspection and category testing reports and notations on the inspection certificate. Periodic inspection and category testing reports and notations on the inspection certificate shall comply with the requirements of sections 28-304.6.4.1 and 28-304.6.4.2.

§28-304.6.4.1 Periodic inspections. For the periodic inspections listed in Table N1 of ASME A17.1, as modified by chapter K1 of appendix K of the New York city building code, the performing inspector shall, on the day of each inspection: (i) complete the periodic inspection report, documenting all violating conditions, if any, and affix his or her signature; (ii) provide a copy of such report to the owner or owner's representative; and (iii) affix the date and his or her signature over a stamp identifying his or her approved elevator agency and his or her approval number on the inspection certificate issued by the department attesting to completion of items (i) and (ii). No witnessing agency is required to witness the periodic inspections.

§28-304.6.4.2 Category testing when a witnessing agency is required. When a witnessing agency is required to witness category tests listed in Table N1 of ASME A17.1, as modified by chapter K1 of appendix K of the New York city building code, the performing inspector shall, on the day of each test complete the category test report, documenting all violating conditions, if any, and affix his or her signature; and provide a copy of such report to the owner or owner's representative with the witnessing agency inspector signature. The witnessing agency inspector shall, on the day of each test: (i) review and confirm the category test report and also affix his or her signature to it; (ii) confirm that a copy of such report was provided to the owner or owner's representative; and (iii) affix the date and his or her signature over a stamp identifying his or her approved elevator agency and his or her approval number on the inspection certificate issued by the department attesting to the completion of items (i) and (ii).

****§28-304.6.4.3 Category testing when no witnessing agency is required.** When no witnessing agency is required to witness the category tests listed in Table N1 of ASME A17.1, as modified by chapter K1 of appendix

K of the New York city building code, the performing inspector shall, on the day of each test: (i) complete the category test report, documenting all violating conditions, if any, and affix his or her signature; (ii) provide a copy of such report to the owner or owner's representative; and (iii) affix the date and his or her signature over a stamp identifying his or her approved elevator agency and his or her approval number on the inspection certificate issued by the department attesting to completion of items (i) and (ii).

***Section 28-304.6.4.3 was added by [Local Law 126 of 2021](#). This provision has an effective date of January 1, 2022.*

****§28-304.6.5 Periodic inspection or category test reports submission.** Periodic inspection or category test reports shall be submitted to the department on such forms and in such manner as required by the commissioner. Such reports shall comply with the following and department rules.

****§28-304.6.5.1 Periodic inspection reports.** Reports of periodic inspections shall comply with the following:

1. The reports shall contain the signatures of (i) the performing agency director, and (ii) the building owner.
2. The reports, with all applicable signatures, shall be filed with the department within 14 days after the date of the inspection.

****§28-304.6.5.2 Category test reports.** Reports of category tests shall comply with the following:

1. The reports shall contain signatures of (i) the performing agency inspector and director, (ii) the witnessing agency director, if required under Table N1 of ASME A17.1 as modified by chapter K1 of appendix K of the New York city building code, and (iii) the building owner.
2. The completed reports, with all applicable signatures, shall be filed with the department within 21 days after the date of the test.

Exception: Reports are not required to be submitted to the department for private residence wheelchair lifts and private residence dumbwaiters devices. However, the owner shall maintain an inspection and test log to be available to the department upon request.

***Section 28-304.6.5 was amended by [Local Law 126 of 2021](#). This provision has an effective date of January 1, 2022.*

§28-304.6.6 Periodic inspection and category testing repair. All defects as found in periodic inspection and category testing reports shall be corrected in accordance with the requirements of sections 28-304.6.6.1 and 28-304.6.6.2 of this code, except that all hazardous conditions and defects related to firefighters' Phase I emergency recall operations or Phase II emergency in-car operation as required by section 3003.2 of the New York city building code shall be corrected immediately.

§28-304.6.6.1 Category test repair. All defects as found in such category test report shall be corrected within 90 days after the date of inspection. The department may grant an extension of 45 days upon submission of an application by the owner demonstrating a practical difficulty in complying within the 90 day timeframe. In no case shall more than two such extensions be granted for a specific defect. An affirmation of correction shall be filed within 14 days after the date of correction.

§28-304.6.6.2 Periodic inspection repair. All defects as found in such periodic inspection report shall be corrected within 90 days after the date of test. An affirmation of correction shall be filed within 14 days of the date of correction.

***Section 28-304.6.6 was added by [Local Law 126 of 2021](#). This provision has an effective date of January 1, 2022.*

§28-304.7 Required contract. The owner of all new and existing passenger elevators, freight elevators, and escalators shall have a contract with an approved elevator agency to perform elevator and escalator maintenance, repair and replacement work as defined by ASME A17.1 as modified by chapter K1 of appendix K of the New York city building code. The name, address and telephone number of such agency shall be maintained at each premises, on the mainline disconnect switch and in a location readily accessible to employees of the department and to maintenance and custodial staff at the premises.

§28-304.8 Fees. Every owner of elevators and other devices shall pay to the department a report filing fee for each elevator or device in the amount prescribed by the department's rules.

§28-304.9 Additional inspections. The commissioner may make such additional inspections as required to enforce the provisions of this code. No fee shall be charged for such additional inspections.

***§28-304.10 Occupant notification for elevator work.** In occupancy groups R-1 and R-2, when an elevator is to be out of service, a notice identifying the type of work to be performed and the expected start and end dates for such outage shall be

provided in English, Spanish, and such other languages as the department may provide by rule, in accordance with sections 28-304.10.1 and 28-304.10.2.

**Section 28-304.10 was amended by: [Local Law 47 of 2015](#). This law has an effective date of September 30, 2015.*

***§28-304.10.1 Occupant notification for alteration work.** When an elevator is to be out of service for alteration work, notice shall be given to the residential occupants no fewer than 10 business days before the start of the work, except in the case of emergency repairs. This notification requirement does not apply to minor alterations and ordinary repairs.

**Section 28-304.10 was added by: [Local Law 47 of 2015](#). This law has an effective date of September 30, 2015.*

***§28-304.10.2 Occupant notification for other elevator service outages.** When all elevators servicing a building or any section of a building are expected to be out of service for two or more hours, notice shall be posted at least twenty-four hours before the start of the work. When all elevators servicing a building or any section of a building are expected to be out of service for less than two hours, or are out of service as the result of emergency work, notice is not required to be posted, except that where such outage lasts for two or more hours, notice shall be posted as soon as practicable after the commencement of such service outage.

**Section 28-304.10 was added by: [Local Law 47 of 2015](#). This law has an effective date of September 30, 2015.*

ARTICLE 305

RETAINING WALLS, PARTITION FENCES AND OTHER SITE STRUCTURES

§28-305.1 Retaining walls, partition fences and other site structures. In addition to the requirements set forth in chapter 33 of the New York city building code, the responsibility for maintaining and repairing retaining walls, partition fences and other site structures shall be in accordance with sections 28-305.1.1, 305.1.2, and 305.4.

§28-305.1.1 Structures located on the lot line of adjacent properties and partially on both properties. The owners of adjacent properties shall be responsible jointly for the proper maintenance and repair of retaining walls, partition fences and other site structures, or portions thereof, that are located along the common lot line and on both their properties; and each such owner shall be responsible for one-half of the costs of maintaining and repairing such fences, retaining walls and other site structures, or such portions thereof. Where an owner elects to remove temporarily a retaining wall or partition fence that is required to support a grade differential between the two properties, or for any other reason is required by this code, such owner shall protect the adjacent property, shall not impair its safe use, and shall replace the retaining wall or partition fence at his or her own cost. Refer to chapter 33 of the New York city building code for additional requirements during construction and demolition operations.

§28-305.1.2 Structures located entirely on one property. Where such retaining walls, partition fences or other site structures, or portions thereof, are located entirely on one property, the owner of such property shall be wholly responsible for the proper maintenance and repair of the retaining wall, partition fence or other site structure. If, however, the proper maintenance and/or repair of such retaining wall, partition fence or other site structures requires access to the adjoining property, the owner of such adjoining property shall allow such access. Refer to chapter 33 of the New York city building code for additional requirements during construction and demolition operations.

§28-305.2 Retaining walls required. Hereafter, when an owner elects to set his or her grade either higher or lower than the grade of an adjoining property at the property line, such owner shall erect, maintain and repair a retaining wall of sufficient height, structure and foundation to support such grade differential, and with proper drainage, in accordance with this code, such that the adjacent property is not impacted, and shall do so at the sole expense of such owner and entirely on the property of such owner without access to the adjoining property.

§28-305.3 Special agreement. Nothing in this article shall be construed to prevent the owners of adjacent properties from making or enforcing by private action special agreements with respect to maintenance or repair of retaining walls, partition fences and other site structures or access to adjoining property for such purpose.

§28-305.4 Maintenance, inspection and repair of retaining walls. Maintenance, inspection and repair of retaining walls shall comply with sections 28-305.4.1 through 28-305.4.8.

§28-305.4.1 Definition. As used in this article, the following term shall have the following meaning:

RETAINING WALL. A wall that resists lateral pressures and limits lateral displacement caused by soil, rock, water or other materials, except that basement and vault walls that are part of a building, underground structures, including but not limited to utility vault structures, tunnels, transit stations and swimming pools, shall not be considered retaining walls.

§28-305.4.2 Owner's responsibility. Owners of retaining walls with a height of ten feet or more and fronting a public right-of-way shall comply with the requirements of this section. For the purposes of this section, the height of a

retaining wall shall be the distance from the top of the ground in front of the wall to the top of the wall stem, or wall step for stepped walls, including any parapets or fencing capable of retaining material.

§28-305.4.3 Condition assessment requirements. A condition assessment of a retaining wall shall be conducted at periodic intervals as set forth by rule of the commissioner, but such assessment shall be conducted at least once every 5 years. The commissioner may establish staggered assessment cycles for retaining walls required to comply with this section.

§28-305.4.3.1 Registered design professional. The condition assessment shall be conducted on behalf of the owner by or under the direct supervision of a registered design professional with appropriate qualifications as prescribed by the department.

§28-305.4.3.2 Department rules. The condition assessment shall be conducted in accordance with rules promulgated by the commissioner.

§28-305.4.4 Report of condition assessment. A report of condition assessment shall be submitted to the department in accordance with sections 28-305.4.4.1 and 28-305.4.4.2.

§28-305.4.4.1 Submission deadlines. Except as otherwise provided in section 28-305.4.6, the registered design professional shall submit a written report to the commissioner within 60 days of completing the assessment, but not more than 5 years following submission of the preceding report of assessment, certifying the results of the assessment.

§28-305.4.4.2 Contents. The report shall certify the results of the assessment as either safe, safe with minor repair or safe with repair and/or engineering monitoring, as prescribed by rules of the department. The report shall clearly document the condition of the retaining wall and shall include a record of all significant deterioration, potentially unsafe conditions of the wall or affecting the wall, and movement observed. The report must be certified by the registered design professional.

§28-305.4.5 Fees. Every owner of a retaining wall shall pay to the department a report filing fee for each report of condition assessment in the amount prescribed by this code.

§28-305.4.6 Immediate notice of unsafe condition. Whenever the registered design professional under whose supervision the inspection is performed learns of an unsafe condition through a condition assessment of a retaining wall, such person shall notify the owner and the department of such condition immediately by calling 311 and by written notification to the department.

§28-305.4.7 Repair of unsafe condition. Upon the notification to the department of an unsafe condition, the owner or the owner's agent shall immediately commence such repairs, reinforcements or other measures as may be required to secure public safety.

§28-305.4.7.1 Permit. The owner or the owner's agent shall obtain a permit within the time set forth in the rules of the department in order to correct the unsafe condition, after securing public safety as provided above.

§28-305.4.7.2 Monitoring. The owner or the owner's agent shall monitor the protection of public safety until the unsafe condition is remedied.

§28-305.4.7.3 Reinspection. The owner or the owner's agent shall reinspect the retaining wall and file an amended report within two weeks after the repairs have been completed certifying that the unsafe conditions of the retaining wall have been corrected.

§28-305.4.7.4 Extension. The commissioner may grant an extension of time of up to 90 days from the date of the application for an extension to complete the repairs required to correct an unsafe condition upon receipt and review of an initial extension application submitted by the registered design professional together with such additional documentation as may be prescribed by rule.

§28-305.4.7.5 Further extension. The commissioner may grant further extensions of time to complete the repairs required to remove an unsafe condition upon receipt and review of an application for a further extension submitted by the registered design professional together with such further documentation as may be prescribed by rule.

§28-305.4.8 Safe with repair and/or engineering monitoring. A retaining wall or any part thereof that may pose a potential danger to persons or property, but does not require immediate action shall be rated safe with repair and/or engineering monitoring. This condition requires further investigation and timely remedial action to prevent its deterioration into an unsafe condition. A registered design professional shall be responsible for appropriately monitoring the wall until the repair is completed.

§28-305.4.8.1 Safe with repair and/or engineering monitoring for two cycles. The registered design professional shall not file a report of safe with repair and/or engineering monitoring for the same retaining wall for 2 consecutive filing periods unless the second such report is accompanied by his or her professional certification attesting to the correction of all conditions identified in the prior report as requiring repair.

ARTICLE 306 PARTY WALLS

§28-306.1 Responsibility for party walls. Repair and maintenance of the construction, design and fire-resistance rating of party walls shall be the joint responsibility of the owners of the adjoining properties, and any change by either owner must maintain the weather protection, structural, vertical fire division and other requirements of this code for party walls.

§28-306.2 Safeguards during construction or demolition. Refer to section BC 3309 of the New York city building code for additional requirements for the maintenance of party walls during construction or demolition operations.

ARTICLE 307 WORKPLACE EXITS

§28-307.1 Obstruction of workplace exits prohibited. Except for the exemptions specified in subdivision j of section 27-371 of the administrative code or chapter 10 of the New York city building code, as applicable, it shall be unlawful for an employer or the agent of an employer to lock the doors of a workplace or otherwise obstruct or prohibit exit from a workplace when such act may endanger the health or safety of any employee, independent contractor or other individual in such workplace in the event of a fire or other hazardous condition or event. The commissioner shall classify a violation of this section as an immediately hazardous violation. Notwithstanding any other provision of this code, upon criminal conviction or civil adjudication of liability for a violation of this section an additional fine or civil penalty of not less than five thousand dollars nor more than twenty thousand dollars shall be imposed for each employee, independent contractor or other individual endangered by a violation of this section.

§28-307.1.1 Notice. A sign shall be posted conspicuously at the workplace of a person convicted of or found liable for a violation of section 28-307.1. Such sign shall, in English, Spanish, Korean, Chinese or any other language directed by the fire commissioner, provide notice to employees of the acts prohibited by section 28-307.1 and of the remedies for employer retaliation as set forth in section 28-307.3. The sign shall be in a form and posted in a manner directed by the fire commissioner and may contain any other information deemed necessary by the fire commissioner or as recommended by the police commissioner or the commissioner. The fire commissioner may, in the interest of public safety, adopt a rule requiring the posting of such signs at other workplaces.

§28-307.2 Unannounced inspections of workplaces by fire department. In addition to any other inspections required by law or rule, the fire department shall conduct a minimum of fifty unannounced workplace inspections annually to ensure the identification and abatement of any hazardous conditions in violation of section 28-307.1. Such inspections shall include, but not be limited to, sites where there are known or suspected conditions affecting employee safety and health.

§28-307.3 Retaliation. It shall be unlawful for an employer or the agent of such employer to take a retaliatory action, as defined by section 740 of the labor law, against an employee because of the lawful acts of such employee in furtherance of a civil or criminal enforcement proceeding arising out of the failure of such employer or agent to comply with section 28-307.1. An employee who is the victim of such retaliatory action may commence an action in any court of competent jurisdiction for the relief provided for in this section and shall be entitled to all relief necessary to make such employee whole. Lawful acts of an employee shall include, but not be limited to, assisting in the investigation and initiation of an enforcement proceeding alleging a violation of section 28-307.1, providing testimony in any such proceeding or providing other assistance in connection therewith. The relief to which such employee shall be entitled shall include, but not be limited to, (i) an injunction to restrain any adverse or retaliatory action, (ii) reinstatement to the position such officer or employee would have had but for such action, or to an equivalent position, (iii) reinstatement of full benefits and seniority rights including payment of any missed back pay, plus interest and (iv) compensation for any special damages sustained as a result of such action, including litigation costs and reasonable attorneys' fees.

ARTICLE 308 ENERGY AUDITS AND RETRO-COMMISSIONING OF BASE BUILDING SYSTEMS

***§28-308.1 Definitions.** As used in this article, the following terms shall have the following meanings:

**Section 28-308.1 (COOPERATIVE CORPORATION) was added by: [Local Law 106 of 2018](#). This law has an effective date of November 25, 2018.*

BASE BUILDING SYSTEMS. The systems or subsystems of a building that use energy and/or impact energy consumption including:

1. The building envelope.
2. The HVAC (heating ventilating and air conditioning) systems.
3. Conveying systems.
4. Domestic hot water systems.
5. Electrical and lighting systems.

Exception: The term "base building systems" shall not include:

1. Systems or subsystems owned by tenants (other than a net lessee for a term of 49 years or more, inclusive of renewal options), condominium unit owners or cooperative unit shareholders, or a system or subsystems for which a tenant bears full maintenance responsibility and that is within the tenant's leased space and/or exclusively serves such leased space.
2. Industrial processes that occur within a covered building.

BUILDING MANAGEMENT SYSTEM. A computer-based system that monitors and controls a building's mechanical and electrical equipment, such as HVAC, lighting, power, fire, and security systems, including, at a minimum, control of the heating equipment using interior temperature sensors.

CITY BUILDING. A covered building that is owned by the city and for which the city regularly pays all or part of the annual energy bills.

Exception: The term "city building" shall not include:

1. Any building that participates in the tenant interim lease apartment purchase program.
2. Any building that participates in a program administered by the department of housing preservation and development.
3. Any building managed by the New York city health and hospitals corporation.
4. Any senior college in the City University of New York system.
5. Any cultural institution that is in the Cultural Institutions Group as determined by the department of cultural affairs.

***COOPERATIVE CORPORATION.** A corporation governed by the requirements of the state cooperative corporation law or general business law that, among other things, grants persons the right to reside in a cooperative apartment, that right existing by such person's ownership of certificates of stock, proprietary lease, or other evidence of ownership of an interest in such entity.

**Section 28-308.1 (COOPERATIVE CORPORATION) was added by: [Local Law 106 of 2018](#). This law has an effective date of November 25, 2018.*

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 50,000 gross square feet (4645 m²), (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²).

Exception: The term "covered building" shall not include real property classified as class one pursuant to subdivision one of section eighteen hundred two of the real property tax law of the state of New York.

CURRENT FACILITY REQUIREMENTS. The owner's current operational needs and requirements for a building, including temperature and humidity set points, operating hours, filtration, and any integrated requirements such as controls, warranty review, and service contract review.

ENERGY AUDIT OR AUDIT. A systematic process of identifying and developing modifications and improvements of the base building systems, including but not limited to alterations of such systems and the installation of new equipment, insulation or other generally recognized energy efficiency technologies to optimize energy performance of the building and achieve energy savings, provided that such process shall not be less stringent than the Level II Energy Survey and Engineering Analysis of the 2004 edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE).

ENERGY AUDITOR. An approved agency authorized by the department to perform energy audits and to certify audit reports required by this article. Until such time as there is a national standard establishing qualifications for persons

performing energy audits and such standard has been adopted by the department, an energy auditor shall be a registered design professional with such other certification or qualification as the department deems to be appropriate. After the establishment of such a national standard, the department may adopt the qualifications of the national standard with such modifications as the department deems to be appropriate.

ENERGY MANAGEMENT SYSTEM. A system incorporating interior temperature sensors and a central processing unit and controls, which are used to monitor and control gas, steam and oil usage, as is applicable, based on the need for heating.

ENERGY EFFICIENCY REPORT. The report required to be filed pursuant to section 28-308.4.

FINANCIAL HARDSHIP (OF A BUILDING). A building shall be considered to be subject to financial hardship if the building:

1. Had arrears of property taxes or water or wastewater charges that resulted in the property's inclusion, within two years prior to the due date of an energy efficiency report, on the department of finance's annual New York city tax lien sale list;
2. Is exempt from real property taxes pursuant to sections 420-a, 420-b, 446 or 462 of the real property tax law and applicable local law and the owner had negative revenue less expenses during the two tax years prior to the due date of an energy efficiency report as certified to the department by a certified public accountant;
3. Had outstanding balances under the department of housing preservation and development's emergency repair program that resulted in the property's inclusion, within two years prior to the due date of an energy efficiency report, on the department of finance's annual New York city tax lien sale list; or
4. Has an active or effective commitment letter from a governmental agency that provides for the financing of the rehabilitation, within a period of 5 years or less, of such building by such government agency for the purposes of affordable housing for low or moderate income families.

OWNER. The owner of record of a covered building, except that in the case of a net lease of an entire building for a term of 49 years or more, inclusive of renewal options, the term owner shall refer to the net lessee and in the case of a covered building held in cooperative or condominium form of ownership, the term owner shall refer to the board of managers in the case of a condominium and the board of directors in the case of a cooperative apartment corporation.

RETRO-COMMISSIONING. A systematic process for optimizing the energy efficiency of existing base building systems through the identification and correction of deficiencies in such systems, including but not limited to repairs of defects, cleaning, adjustments of valves, sensors, controls or programmed settings, and/or changes in operational practices.

RETRO-COMMISSIONING AGENT. An individual, who shall not be a certified refrigerating system operating engineer or a licensed high pressure boiler operating engineer on the staff of the building being retro-commissioned, authorized by the department to certify retro-commissioning reports required by this article. Until such time as there is a national standard establishing qualifications for persons who perform retro-commissioning and such standard has been adopted by the department, a retro-commissioning agent shall be a registered design professional, a certified refrigerating system operating engineer, or a licensed high pressure boiler operating engineer, with such other qualification or certification as determined by the department. After the establishment of such a national standard, the department may adopt the qualifications of the national standard with such modifications as the department deems to be appropriate.

SIMPLE BUILDING. A covered building with neither a central chilled water system nor a central cooling system that covers more than 10 percent of the building's gross area.

SIMPLE PAYBACK. The number of years for the projected annual energy savings to equal the amount invested in the energy conservation measure, as determined by dividing the investment by the annual energy savings.

SPACE. An area within a building enclosed by floor to ceiling walls, partitions, windows and doors.

SYSTEM OR SUBSYSTEM. Shall have the same definition as set forth in section two hundred two of the New York city energy conservation code.

§28-308.2 Energy audits required. The owner shall ensure that an energy audit is performed on the base building systems of a covered building prior to filing an energy efficiency report as required by this article. Except as otherwise provided in section 28-308.7, an energy audit shall be performed by or under the supervision of an energy auditor and shall be performed in accordance with rules promulgated by the department. The audit process shall cover the base building systems and shall identify at a minimum:

1. All reasonable measures, including capital improvements, that would, if implemented, reduce energy use and/or the cost of operating the building;

2. For each measure, the associated annual energy savings, the cost to implement, and the simple payback, calculated by a method determined by the department;
3. The building's benchmarking output consistent with the United States Environmental Protection Agency Portfolio Manager tool or as otherwise established by the department;
4. A break-down of energy usage by system and predicted energy savings by system after implementation of the proposed measures; and
5. A general assessment of how the major energy consuming equipment and systems used within tenant spaces impact the energy consumption of the base building systems based on a representative sample of spaces.

Exceptions:

1. No energy audit is required if the building complies with one of the following as certified by a registered design professional:
 - 1.1. The covered building has received an EPA Energy Star label for at least two of the three years preceding the filing of the building's energy efficiency report.
 - 1.2. There is no EPA Energy Star rating for the building type and a registered design professional submits documentation, as specified in the rules of the department, that the building's energy performance is 25 or more points better than the performance of an average building of its type over a two-year period within the three-year period prior to the filing of an energy efficiency report consistent with the methodology of the LEED 2009 rating system for Existing Buildings published by the United States Green Building Council or other rating system or methodology for existing buildings, as determined by the department.
 - 1.3. The covered building has received certification under the LEED 2009 rating system for Existing Buildings published by the United States Green Building Council or other rating system for existing buildings, as determined by the department, within four years prior to the filing of the building's energy efficiency report.
2. An energy audit shall not be required for the first energy efficiency report of a simple building that is in compliance with six out of seven of the following items as certified by a registered design professional:
 - 2.1. Individual heating controls. (i) Each dwelling unit in the building has one or more thermostatic controls controlling all the heating units within the dwelling unit and any heated space not within a dwelling unit has one or more thermostatic controls controlling all the heating units within the space, or (ii) the building has a central heating system controlled by an energy management system or a building management system that incorporates temperature sensors located in at least 10 percent of the dwelling units and 10 percent of the heated spaces, except that the total number of sensors required within the building shall not be less than 10 nor more than 30.
 - 2.2. Common area and exterior lighting. Common area (lighting outside of tenant spaces) and exterior lighting, at a minimum, are in compliance with the provisions of the New York city energy conservation code as in effect for new systems installed on or after July 1, 2010.
 - 2.3. Low flow faucets and shower heads. All faucets and showerheads within the building, at a minimum, meet the standards of Table 604.4 of the New York city plumbing code as in effect for new systems installed on or after July 1, 2010.
 - 2.4. Pipe insulation. All exposed pipes that are used to convey heat or hot water are insulated, at a minimum, in accordance with the standards of the New York city energy conservation code as in effect for new systems installed on or after July 1, 2010.
 - 2.5. Domestic hot water. All domestic hot water tanks that do not have built-in insulation are insulated with a minimum insulation value of R-8.
 - 2.6. Washing machines. All common area clothes washing machines are front loading.
 - 2.7. Cool roof. The roof complies with section 1504.8 of the New York city building code as in effect for new buildings constructed on or after July 1, 2010.

§28-308.2.1 Contents of audit report. The energy auditor shall prepare and certify a report of the energy audit. Except as otherwise provided in section 28-308.7, the audit report shall include such information relating to the audit as shall

be specified in the rules of the department, including but not limited to (i) the date that the audit was completed, and (ii) the information specified in section 28-308.2.

§28-308.2.1.1 Compliance with landmarks laws. The cost estimates for covered buildings that are regulated by any city, state or federal law regulating landmarks and historic buildings shall include all additional costs necessary for the proposed work to comply with such law.

§28-308.2.2 Timing of energy audit. Except as otherwise provided in section 28-308.7, the energy audit shall be completed no earlier than four years prior to the date on which a covered building's energy efficiency report is filed with the department pursuant to this article.

§28-308.3 Retro-commissioning required. The owner shall ensure that retro-commissioning is performed on the base building systems of a covered building prior to filing an energy efficiency report as required by this article. Except as otherwise provided in section 28-308.7, retro-commissioning shall be performed by or under the supervision of a retro-commissioning agent in accordance with rules promulgated by the department. Such rules, at a minimum, shall ensure that sufficient analysis, corrections and testing have been done so that the base building systems meet the following criteria demonstrating efficient operation:

1. Operating protocols, calibration, and sequencing:
 - 1.1. HVAC temperature and humidity set points and setbacks are appropriate and operating schedules reflect major space occupancy patterns and the current facility requirements.
 - 1.2. HVAC sensors are properly calibrated.
 - 1.3. HVAC controls are functioning and control sequences are appropriate for the current facility requirements.
 - 1.4. Loads are distributed equally across equipment when appropriate (i.e. fans, boilers, pumps, etc. that run in parallel).
 - 1.5. Ventilation rates are appropriate for the current facility requirements.
 - 1.6. System automatic reset functions are functioning appropriately, if applicable.
 - 1.7. Adjustments have been made to compensate for oversized or undersized equipment so that it is functioning as efficiently as possible.
 - 1.8. Simultaneous heating and cooling does not occur unless intended.
 - 1.9. HVAC system economizer controls are properly functioning, if applicable.
 - 1.10. The HVAC distribution systems, both air and water side, are balanced.
 - 1.11. Light levels are appropriate to the task.
 - 1.12. Lighting sensors and controls are functioning properly according to occupancy, schedule, and/or available daylight, where applicable.
 - 1.13. Domestic hot water systems have been checked to ensure proper temperature settings.
 - 1.14. Water pumps are functioning as designed.
 - 1.15. System water leaks have been identified and repaired.
2. Cleaning and repair:
 - 2.1. HVAC equipment (vents, ducts, coils, valves, soot bin, etc.) is clean.
 - 2.2. Filters are clean and protocols are in place to replace, as appropriate.
 - 2.3. Light fixtures are clean.
 - 2.4. Motors, fans, and pumps, including components such as belts, pulleys, and bearings, are in good operating condition.
 - 2.5. Steam traps have been replaced as required to maintain efficient operation, if applicable.
 - 2.6. Manual overrides on existing equipment have been remediated.
 - 2.7. Boilers have been tuned for optimal efficiency, if applicable.

- 2.8. Exposed hot and chilled water and steam pipes 3 inches (76mm) or greater in diameter with associated control valves are insulated in accordance with the standards of the New York city energy conservation code as in effect for new systems installed on or after July 1, 2010.
- 2.9. In all easily accessible locations, sealants and weather stripping are installed where appropriate and are in good condition.
3. Training and documentation:
 - 3.1. Permits for all HVAC, electrical and plumbing equipment are in order.
 - 3.2. Critical operations and maintenance staff have received appropriate training, which may include labor/management training, on all major equipment and systems and general energy conservation techniques.
 - 3.3. Operational and maintenance record keeping procedures (log books, computer maintenance records, etc.) have been implemented.
 - 3.4. The following documentation is on site and accessible to the operators: the operations and maintenance manuals, if such manuals are still available from the manufacturer, the maintenance contracts, and the most recent retro-commissioning report.

Exception: No retro-commissioning is required if the covered building has received certification under the LEED 2009 rating system for Existing Buildings published by the United States Green Building Council or other rating system for existing buildings, as determined by the department, within two years prior to the filing of the building's energy efficiency report and earned the LEED point for Existing Building Commissioning investigation and analysis and the LEED point for Existing Building Commissioning implementation.

§28-308.3.1 Contents of retro-commissioning report. The retro-commissioning agent shall prepare and certify a retro-commissioning report. The retro-commissioning report shall include such information relating to the retro-commissioning as shall be set forth in the rules of the department including, at a minimum:

1. Project and team information:
 - 1.1. Building address.
 - 1.2. Experience and certification of person performing retro-commissioning and any staff involved in the project.
 - 1.3. Name, affiliation, and contact information for persons performing retro-commissioning and members of the retro-commissioning team, owner of building, and facility manager of building.
2. Building information:
 - 2.1. List of all HVAC, domestic hot water, electrical equipment, lighting, and conveyance equipment types in the base building systems.
 - 2.2. Benchmarking output.
3. Testing protocol:
 - 3.1. List of all equipment types tested.
 - 3.2. For each equipment type tested, a list of the sample rates (percent of each type of equipment tested), the testing methodology, including any diagnostic equipment used, and the test results.
 - 3.3. List of integrated system testing performed.
4. Master list of findings, including for each, the name of the retro-commissioning measure and its assigned number, a brief description of the measure, recommended corrections, the benefits attained, estimated annual savings (energy and cost), the estimated implementation cost, and the simple payback.
5. Deficiencies corrected:
 - 5.1. List of repairs completed during investigation.
 - 5.2. List of deficiencies corrected, including, for each deficiency, the date corrected, by whom the correction was made, the actual cost, and projected savings.

§28-308.3.2 Timing of retro-commissioning. Except as otherwise provided in section 28-308.7, the retro-commissioning shall be completed no earlier than four years prior to the date on which a covered building's energy efficiency report is filed with the department pursuant to this article.

§28-308.3.3 Documentation of retro-commissioning. A copy of the latest up-to-date equipment manuals and the most recent retro-commissioning report shall be maintained at every covered building and shall be made available upon request for inspection by the department.

§28-308.4 Energy efficiency report required. Except as otherwise provided in section 28-308.7, the owner of a covered building shall file an energy efficiency report for such building between January first and December thirty-first of the calendar year in which such report is due pursuant to this section and between January first and December thirty-first of every tenth calendar year thereafter.

Exceptions:

1. An owner may apply for an extension of time to file an energy efficiency report if despite such owner's good faith efforts, to be documented in such application, the owner is unable to complete the required energy audit and retro-commissioning prior to the scheduled due date for such report. The commissioner may grant no more than two such extensions of no more than one year each. Extensions granted pursuant to this provision shall not extend the scheduled due dates for subsequent energy efficiency reports.
2. An owner may receive annual extensions of time to file an energy efficiency report based on financial hardship of the building.

***§28-308.4.1 Due dates.** The first energy efficiency reports for covered buildings in existence on the effective date of this article and for new buildings shall be due, beginning with calendar year 2013, in the calendar year with a final digit that is the same as the last digit of the building's tax block number, as illustrated in the following chart:

Last digit of tax block number	0	1	2	3	4	5	6	7	8	9
Year first EER is due	2020	2021	2022	2013	2014	2015	2016	2017	2018	2019

Owners of covered buildings (i) that are less than 10 years old at the commencement of their first assigned calendar year or (ii) that have undergone substantial rehabilitation, as certified by a registered design professional, within the 10 year period prior to any calendar year in which an energy efficiency report is due, such that at the commencement of such calendar year all of the base building systems of such building are in compliance with the New York city energy conservation code as in effect for new buildings constructed on and after July 1, 2010, or as in effect on the date of such substantial rehabilitation, whichever is later, may defer submitting an energy efficiency report for such building until the tenth calendar year after such assigned calendar year.

Exceptions:

1. The first due dates for city buildings shall be in accordance with a staggered schedule, commencing with calendar year 2013 and ending with calendar year 2022 for buildings in existence on the effective date of this article, to be submitted by the department of citywide administrative services to the department on or prior to December 31, 2011. A city building constructed after the effective date of this article shall be added to such schedule within 10 years after the issuance of the first certificate of occupancy for such building. Copies of energy efficiency reports submitted to the department with respect to city buildings that are not submitted by the department of citywide administrative services shall also be submitted to the department of citywide administrative services.
2. A cooperative corporation that owns multiple covered buildings located on different tax block numbers, that is required to file an energy efficiency report for more than one covered building in different calendar years, may consolidate all such energy efficiency reports into one report, disaggregated by covered building, due no later than the year in which the last energy efficiency report would be due, which shall be accepted by the department in satisfaction of the requirements of this section for each covered building included in such consolidated report.

**Section 28-308.4.1 was amended by: [Local Law 106 of 2018](#). This law has an effective date of November 25, 2018.*

§28-308.4.2 Combined audit and retro-commissioning. Nothing in this article shall prevent an owner from performing the audit and the retro-commissioning in a combined process, provided that all the requirements of sections 28-308.2 and 28-308.3 are met.

§28-308.5 Content of energy efficiency report. Except as otherwise provided in section 28-308.7, the energy efficiency report shall include, in a format prescribed by the department, (i) the energy audit report or documentation substantiating that an exception as set forth in section 28-308.2 applies to such building, and (ii) the retro-commissioning report or documentation substantiating that an exception as set forth in section 28-308.3 applies to such building.

§28-308.6 Notification by the department of finance. The department of finance shall notify the owner of the requirements of this article three years prior to the calendar year in which the covered building's energy efficiency report is due and in the calendar year prior to the calendar year in which such report is due.

§28-308.7 Early compliance. Notwithstanding any other provision of this article, an owner may submit an energy efficiency report, including both an energy audit report pursuant to section 28-308.7.1 and a retro-commissioning report pursuant to section 28-308.7.2, in the calendar year commencing January 1, 2013 and ending December 31, 2013 in order to achieve early compliance with this section. An energy efficiency report submitted for early compliance shall be deemed to satisfy the first required energy efficiency report for the building as assigned pursuant to section 28-308.4.1. The next required energy efficiency report for such building shall be due in the tenth calendar year after the first assigned due date for such report.

§28-308.7.1 Early compliance energy audit report. An energy audit report for a covered building shall be acceptable for early compliance if it is completed after January 1, 2006 and it includes:

1. The address of the building, completion date of the audit, signature and credentials of the person performing or supervising the performance of the audit and of the audit team; and
2. The information required in items 1 through 5 of section 28-308.2.

§28-308.7.1.1 Early compliance audit completed after January 1, 2006 and prior to the effective date of this article. An early compliance audit completed after January 1, 2006 and prior to the effective date of this article shall have met the following additional criteria:

1. The audit shall have met the requirements of the Level II Energy Survey and Analysis of the 2004 edition of Procedures for Commercial Building Energy Audits published by ASHRAE; or
2. The audit shall have been performed under a New York Power Authority or New York State Energy Research and Development Authority (NYSERDA) contract or by a NYSEDA Flex Tech contractor; and
3. The audit report shall be submitted along with certification by a registered design professional that the audit satisfies the criteria of this section.
4. A partial audit completed after January 1, 2006 and prior to the effective date of this article shall qualify for early compliance only if the base building systems that were not subject to such audit are audited, after the effective date of this article, in the manner set forth in section 28-308.7.1.2.

§28-308.7.1.2 Early compliance audit completed after the effective date of this article. An early compliance audit completed after the effective date of this article shall meet the following additional criteria:

1. The audit shall be performed by or under the supervision of a registered design professional and shall meet the requirements of the Level II Energy Survey and Analysis of the 2004 edition of Procedures for Commercial Building Energy Audits published by ASHRAE;
2. The auditing team shall include an individual who is one of the following:
 - 2.1. A NYSEDA approved Flex Tech contractor;
 - 2.2. A Certified Energy Manager (CEM) or Certified Energy Auditor (CEA), certified by the Association of Energy Engineers (AEE);
 - 2.3. A High-Performance Building Design Professional (HPBD) certified by ASHRAE; or
 - 2.4. For audits of multifamily residential buildings only, a Multi-family Building Analyst (MFBA), certified by the Building Performance Institute (BPI), or have such other qualification or certification as determined by the department;

3. An individual with at least three years of professional experience performing energy audits on buildings larger than 50,000 gross square feet (4645 m²) shall be a member of the auditing team;
4. The building's operations and maintenance staff shall be consulted at the start of and during the audit process; and
5. The registered design professional performing or supervising the audit shall certify that the audit satisfies the criteria of this section.

§28-308.7.2 Early compliance retro-commissioning. A retro-commissioning shall be acceptable for early compliance if it is completed after the effective date of this article and meets the following criteria:

1. The retro-commissioning shall be performed under a NYSERDA contract for base building retro-commissioning or certified by an individual who is not on the staff of the building and is (i) a registered design professional, (ii) a certified refrigerating system operating engineer, or (iii) a licensed high pressure boiler operating engineer;
2. The retro-commissioning team shall include an individual who is a Certified Commissioning Professional (CCP) certified by the Building Commissioning Association (BCA), a Certified Building Commissioning Professional (CBCP) certified by the AEE, a Commissioning Process Management Professional (CPMP) certified by ASHRAE, or an Accredited Commissioning Process Authority Professional (ACPAP) approved by the University of Wisconsin, or has such other certification as determined by the department;
3. The retro-commissioning team shall include an individual with at least one year of professional experience performing retro-commissioning on the mechanical systems of buildings larger than 50,000 gross square feet (4645 m²);
4. The building's operations and maintenance staff shall be consulted at the start of and during the retro-commissioning process; and
5. The retro-commissioning report shall contain a certification that sufficient analysis and testing has been done and corrections have been performed so that the base building systems meet the criteria of section 28-308.3 and shall include the information specified in section 28-308.3.1.
6. Nothing in this section shall be construed to determine which individuals may perform the work to correct deficiencies identified during the retro-commissioning process, except as otherwise provided by applicable law.

§28-308.8 Optional compliance for energy efficiency reports due in the calendar year commencing January 1, 2013.

Notwithstanding any other provision of this article, audits and retro-commissioning for energy efficiency reports scheduled to be due in the calendar year commencing January 1, 2013 shall be performed, at the option of the owner, in accordance with the provisions for early compliance as set forth in section 28-308.7 or in accordance with procedures set forth in the rules of the department, if such procedures are promulgated within one year prior to the due date of such report. If such procedures are not promulgated within one year prior to the due date of such report, audit and retro-commissioning for energy efficiency reports due in the calendar year commencing January 1, 2013 shall comply with the audit and retro-commissioning procedures for early compliance.

§28-308.9 Rules. The department shall promulgate such rules as are necessary to carry out the provisions of this article in a timely manner, which may include separate fees for filing and review of applications and reports filed pursuant to this article.

***ARTICLE 309**

**BENCHMARKING ENERGY AND WATER USE AND
DISCLOSURE OF ENERGY EFFICIENCY SCORES AND GRADES**

**Section 28-309 was amended by [Local Law 33 of 2018](#). This law has an effective date of January 8, 2018.*

§28-309.1 General. The energy and water use of city buildings and covered buildings shall be benchmarked in accordance with this article.

***§28-309.2 Definitions.** As used in this article, the following terms shall have the following meanings:

BENCHMARK. To input and submit to the benchmarking tool the total use of energy and water for a building for the previous calendar year and other descriptive information for such building as required by the benchmarking tool.

BENCHMARKING TOOL. The internet-based database system developed by the United States environmental protection agency, and any complementary interface designated by the office of long-term planning and sustainability, to track and assess the energy and water use of certain buildings relative to similar buildings.

CITY BUILDING. A building that is more than 10,000 gross square feet (929 m²), as it appears in the records of the department of finance, that is owned by the city or for which the city regularly pays all of the annual energy bills, provided that two or more buildings on the same tax lot shall be deemed to be one building.

Exception: The term "city building" shall not include:

1. Any building owned by the city that participates in the tenant interim lease apartment purchase program; or
2. Any building owned by the city that (i) is 25,000 gross square feet (2323 m²) or less, as it appears in the records of the department of finance, and (ii) participates in a program administered by the department of housing preservation and development.

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 25,000 gross square feet (2323 m²), (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²), or (iv) a city building.

Exceptions: The term "covered building" shall not include:

1. Any building owned by the city that participates in the tenant interim lease apartment purchase program.
2. Real property classified as class one pursuant to subdivision one of section one thousand eight hundred two of the real property tax law.
3. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than two dwelling units, as certified by a registered design professional to the department.

DATA CENTER. A room or rooms used primarily to house high density computing equipment, such as server racks, used for data storage and processing.

DWELLING UNIT. A single unit consisting of one or more habitable rooms, occupied or arranged to be occupied as a unit separate from all other units within a building, and used primarily for residential purposes and not primarily for professional or commercial purposes.

ENERGY. Electricity, natural gas, fuel oil and steam.

OWNER. The owner of record, provided that "owner" shall be deemed to include: (i) the net lessee in the case of a building subject to a net lease with a term of at least forty-nine years, inclusive of all renewal options, (ii) the board of managers in the case of a condominium, and (iii) the board of directors in the case of a cooperative apartment corporation.

TENANT. Any tenant, tenant-stockholder of a cooperative apartment corporation, condominium unit owner or other occupant.

**Section 28-309.2 was amended by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

§28-309.3 Benchmarking required for city buildings. No later than May 1, 2010, and no later than every May first thereafter, any city building shall be benchmarked by the agency or entity primarily responsible for the management of such building, in coordination with the department of citywide administrative services with respect to energy use, and with the New York city department of environmental protection with respect to water use. Benchmarking of water use shall not be required unless the building was equipped with automatic meter reading equipment by the New York city department of environmental protection for the entirety of the previous calendar year. The city shall maintain such documents as the department determines are necessary for the purpose of carrying out the provisions of this article.

***§28-309.4 Benchmarking required for covered buildings other than city buildings.** The owner of a covered building, other than a city building, shall annually benchmark such covered building no later than May 1, 2011, and no later than every May 1 thereafter. Benchmarking of water use shall not be required unless the building was equipped with automatic meter reading equipment by the New York city department of environmental protection for the entirety of the previous calendar year. The owner or the owner's representative performing the benchmarking shall consult with the operating staff of the building, as appropriate. Information submitted to the benchmarking tool must be accurate and complete.

Exception: The first mandatory benchmarking for a covered building, other than a city building, that (i) does not exceed 50,000 gross square feet (4645 m²), (ii) is not one of two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²) and (iii) is not one of two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²), shall be completed on or before May 1 of the first year that commences after the department determines and sets forth in a rule that the utility company providing energy to such buildings will, upon request of an owner, directly upload information necessary to benchmark such building.

**Section 28-309.4 was amended by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-309.4.1 Obligation to report energy use for all utility accounts and addresses connected to the building.** The owner shall submit information to the benchmarking tool for all utility accounts and addresses connected to the building, including those for separately metered tenant spaces. The owner shall obtain information for separately metered tenant spaces from the utility. If the utility does not have a program to provide such information, the owner shall make reasonable efforts to obtain such information from the tenant. Tenants shall have the obligation to provide such information.

**Section 28-309.4.1 was amended by: [Local Law 133 of 2016](#). Sections 28-309.4.1.1 through 28-309.4.1.4 were repealed by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-309.4.2 Preservation of documents, inspection, and audit.** An owner of a covered building shall maintain such records as the department determines are necessary for carrying out the purposes of this article, including but not limited to energy and water bills and reports or forms received from utilities and tenants. Where energy use within separately metered tenant spaces is omitted, records shall be maintained documenting the owner's efforts to obtain such information. All records shall be preserved for a period of three years, provided that the commissioner may consent to their destruction within that period or may require that such records be preserved longer than such period. At the request of the department, such records shall be made available for inspection and audit by the department at the place of business of the owner or at the offices of the department during normal business hours.

**Section 28-309.4.2 was amended by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-309.4.3 Violations.** It shall be unlawful for the owner of a covered building to fail to benchmark pursuant to section 28-309.4. The commissioner shall classify such violation as a lesser violation. If, upon audit of a benchmarking report, the department finds that information submitted to the benchmarking tool was substantially inaccurate or incomplete, the department may reject the purported benchmarking and the owner shall be liable for a violation of section 28-309.4 as if no benchmarking had been performed.

Exception: Notwithstanding section 28-204.2, no civil penalty shall be imposed on the owner of a covered building for a violation of this section for such covered building if:

1. Such covered building (i) does not exceed 50,000 gross square feet (4645 m²), (ii) is not two or more buildings on the same tax lot that together exceeds 100,000 gross square feet (9290 m²), (iii) is not two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²), and (iv) is not a city building;
2. Such owner requested, from the department or another agency designated pursuant to section 28-309.11, benchmarking assistance in connection with such building, and such request was made at least 60 days before the due date of the benchmarking report for which such violation was issued; and
3. Such owner corrects such violation within 60 days after the date of the notice of such violation.

**Section 28-309.4.3 was amended by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

§28-309.5 Direct upload. Information shall be directly uploaded to the benchmarking tool in accordance with the following:

***§28-309.5.1 Direct upload by a utility company or other source.** The office of long-term planning and sustainability shall encourage and facilitate any utility company or any other source authorized by the office of long-term planning and sustainability to upload directly to the benchmarking tool as soon as practicable, information necessary to benchmark a building.

**Section 28-309.5.1 was amended by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

§28-309.5.2 Direct upload by the New York city department of environmental protection. The New York city department of environmental protection shall upload directly to the benchmarking tool information on water use at all buildings that were equipped with automatic meter reading equipment by the New York city department of

environmental protection for the entirety of the previous calendar year and that are subject to the benchmarking requirements of this article.

§28-309.6 Suspension. The director of the office of long-term planning and sustainability may suspend all or part of the requirement to benchmark pursuant to this article upon a written finding that a technological deficiency in the benchmarking tool precludes compliance with this article. The director of the office of long-term planning and sustainability may lift all or part of any such suspension upon a written finding that such deficiency has been corrected. The office of long-term planning and sustainability shall notify the speaker of the city council, the department, the department of citywide administrative services, the New York city department of environmental protection and the department of finance promptly upon issuing a suspension or lifting a suspension pursuant to this section.

§28-309.7 Notification and transmission of information. The department of finance shall:

1. Annually notify owners of covered buildings of their obligation to benchmark pursuant to section 28-309.4, provided that the failure of the department of finance to notify any such owner shall not affect the obligation of such owner to benchmark pursuant to such section.
2. Notify owners of covered buildings of any suspension or lifting of a suspension pursuant to section 28-309.6.
3. Make available to the department information regarding owners of covered buildings for which no benchmarking information was generated by the benchmarking tool.

***§28-309.8 Disclosure.** The department of finance shall make information generated by the benchmarking tool available to the public on the internet no later than September 1 of the year in which the covered buildings are benchmarked. Such information shall include, but need not be limited to: (i) the energy use intensity, (ii) the water use per gross square foot, (iii) where available, a rating or score that compares the energy and water use of the building to that of similar buildings, and (iv) a comparison of data across calendar years for any years such building was benchmarked. Information generated by the benchmarking tool for the 2009 calendar year for city buildings, for the 2010 calendar year for covered buildings, and for the 2011 calendar year for covered buildings whose primary use is residential, as determined by the department of finance, shall not be disclosed.

Exception: Ratings or scores generated by the benchmarking tool for a covered building that contains a data center, television studio, and/or trading floor that together exceed ten percent of the gross square footage of any such building shall not be disclosed until the office of long-term planning and sustainability determines that the benchmarking tool can make adequate adjustments for such facilities. When the office of long-term planning and sustainability determines that the benchmarking tool can make such adjustments, it shall report such determination to the mayor and the speaker of the city council. Until such determination is made, the office of long-term planning and sustainability shall report biennially to the mayor and the speaker of the city council that the benchmarking tool is unable to make such adjustments.

**Section 28-309.8 was amended by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-309.9 Report.** No later than December 31 of each year, the office of long-term planning and sustainability shall prepare, submit to the mayor and the speaker of the city council, and post on the internet a report reviewing and evaluating the administration and enforcement of this article and analyzing data obtained from the benchmarking tool. Such report shall contain information regarding: (i) the energy and water efficiency of buildings in the city, (ii) the accuracy of benchmarked data and whether there is a need to train and/or certify individuals who benchmark, (iii) compliance with the requirements of this article, (iv) any administrative and legislative recommendations for strengthening the administration and enforcement of this article, (v) the effectiveness of the benchmarking tool in accounting for New York city conditions, including, but not limited to, high density occupancies, use of steam, large building size, and specific high-energy uses such as data centers, television studios, and trading floors, and (vi) such other information and analyses as the office of long-term planning and sustainability deems appropriate.

**Section 28-309.9 was amended by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

§28-309.10 Rules. The department, the department of finance and the office of long-term planning and sustainability may promulgate such rules as deemed necessary to carry out the provisions of this article.

***§28-309.11 Benchmarking assistance.** The department or another agency designated by the mayor shall establish a system to receive and respond to requests from owners for assistance with respect to fulfilling the benchmarking requirements of this section. Such assistance may include, but need not be limited to, trainings, the provision of reference guides, and a publicized telephone number and email address to receive direct questions. The annual notice required by section 28-309.7 shall notify covered building owners that such assistance is available and shall describe how such assistance can be obtained.

**Section 28-309.11 was added by: [Local Law 133 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-309.12 Energy efficiency scores and energy efficiency grades.** Energy efficiency scores and grades for buildings shall be obtained, assigned and disclosed in accordance with this section.

**Section 28-309.12 was added by [Local Law 33 of 2018](#). This law has an effective date of January 8, 2018.*

***§28-309.12.1 Definitions.** As used in section 28-309.12, the following terms shall have the following meanings:

****ENERGY EFFICIENCY GRADE.** The term "energy efficiency grade" means, for a covered building, a grade based on an energy efficiency score assigned through the benchmarking tool in accordance with this section as follows:

1. If such score is equal to or greater than 85 the energy efficiency grade shall be A;
2. If such score is equal to or greater than 70 but less than 85, the energy efficiency grade shall be B;
3. If such score is equal to or greater than 55 but less than 70, the energy efficiency grade shall be C;
4. If such score is less than 55, the energy efficiency grade shall be D;
5. If the owner of such building has not complied with section 28-309.12.2, and such owner has had an opportunity to be heard with respect to such non-compliance, the energy efficiency grade shall be F; and
6. If, in accordance with the rules of the department, it is not feasible to obtain an energy efficiency score for such building or if such building is subject to the exception in section 28-309.8, the energy efficiency grade shall be N.

***Section 28-309.12.1 (ENERGY EFFICIENCY GRADE) was amended by [Local Law 95 of 2019](#). This law has an effective date of May 19, 2019.*

ENERGY EFFICIENCY SCORE. The term "energy efficiency score" means, for a building, the Energy Star rating for such building or a score that assesses the energy use of such building relative to similar buildings that is assigned through the benchmarking tool.

ENERGY STAR RATING. The rating that a building earns using the United States Environmental Protection Agency ENERGY STAR portfolio manager to compare building energy performance to similar buildings in similar climates.

**Section 28-309.12.1 was added by [Local Law 33 of 2018](#). This law has an effective date of January 8, 2018.*

***§28-309.12.2 Energy efficiency score and energy efficiency grade required.** In 2020 and in each calendar year thereafter, an owner of a covered building shall use the benchmarking tool to provide an energy efficiency score for such building to the department in accordance with the rules of the department unless, in accordance with such rules, the building is a type of building for which it is not feasible to obtain an energy efficiency score. In each such year, the department shall issue an energy efficiency grade to the owner in accordance with such rules.

**Section 28-309.12.2 was added by [Local Law 33 of 2018](#). This law has an effective date of January 8, 2018.*

***§28-309.12.3 Display of energy efficiency score and energy efficiency grade.** Within 30 days after the owner of a covered building obtains an energy efficiency grade, such owner shall post such grade and the energy efficiency score upon which such grade was based in a conspicuous location near each public entrance to such building, in a form and manner established by the department.

Exception: This section 28-309.12.3 shall not apply to posting of the energy efficiency score of a building with an energy efficiency grade of N.

**Section 28-309.12.3 was added by [Local Law 33 of 2018](#). This law has an effective date of January 8, 2018.*

***§28-309.12.4 Publication of energy efficiency grades and energy efficiency scores.** For each building for which an energy efficiency grade or energy efficiency score is generated pursuant to this section, the department shall make information generated in connection with such grade and score publicly available online by no later than May 1 of the year following such generation.

Exception: This section 28-309.12.4 shall not apply to information generated with respect to a building with an energy efficiency grade of N.

**Section 28-309.12.4 was added by [Local Law 33 of 2018](#). This law has an effective date of January 8, 2018.*

***§28-309.12.5 Audits.** The department shall, from time to time, audit information submitted for buildings in connection with energy efficiency grades and energy efficiency scores. Such audits shall occur at least annually and shall involve appropriate sample size of buildings, as determined by the department.

**Section 28-309.12.5 was added by [Local Law 33 of 2018](#). This law has an effective date of January 8, 2018.*

***§28-309.13 Outreach to building owners regarding making energy efficiency improvements.** Each year, the department shall provide information regarding energy efficiency improvements to owners of buildings of all sizes, including buildings connected to gas lines. Such information shall also be posted on the department's website. The information shall include but not be limited to making energy efficiency improvements including the use of fossil fuel alternatives, the benefits of energy efficiency improvements, compliance with the New York city energy conservation code, and compliance with other laws aimed at reducing building energy use and carbon emissions.

**Section 28-309.13 was added by [Local Law 93 of 2020](#). This law has an effective date of March 26, 2021.*

ARTICLE 310 REQUIRED UPGRADE OF LIGHTING SYSTEMS

§28-310.1 General. Lighting systems in covered buildings shall be upgraded as provided for in this article.

***§28-310.2 Definitions.** As used in this article, the following terms shall have the following meanings:

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 25,000 gross square feet (2323 m²), (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²) or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²).

Exceptions: The term "covered building" shall not include:

1. Real property classified as class one pursuant to subdivision one of section eighteen hundred two of the real property tax law; or
2. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than two dwelling units, as certified by a registered design professional to the department.

**Section 28-310.2 was amended by: [Local Law 134 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-310.3 Upgrade of lighting systems of covered buildings required.** No later than January 1, 2025 the lighting systems of covered buildings shall be in compliance with the standards for new systems set forth in the New York city energy conservation code and/or applicable standards referenced in such energy code. The owner of a covered building shall ensure that the upgrade of the lighting system of the entire covered building is completed on or prior to such date and shall file a report with the department, in accordance with the rules of the department, prepared by a registered design professional or a licensed master or special electrician certifying that such upgrade has been completed and that the work is in compliance with the technical standards of the New York city electrical code. The department may impose a fee for filing and review of such reports.

Exceptions:

1. An element of a lighting system that is in compliance with the standards of the New York city energy conservation code and/or applicable standards referenced in such code as in effect for new systems installed on or after July 1, 2010.
2. Lighting power densities in any space bounded by permanent floor-to-ceiling partitions and/or closable doors that are in compliance with the standards of the New York city energy conservation code and/or applicable standards referenced in such code as in effect for new systems installed on or after July 1, 2010.
2. The lighting system within dwelling units classified in occupancy group R-2 or R-3.
3. The lighting system within a space classified in occupancy group A-3 that is within a house of worship.

**Section 28-310.3 was amended by: [Local Law 134 of 2016](#). This law has an effective date of October 31, 2016. The mis-numbering will be corrected in future legislation.*

ARTICLE 311
INSTALLATION OF ELECTRICAL SUB-METERS IN TENANT SPACES

§28-311.1 General. Sub-meters shall be installed in covered buildings as provided in this article.

***§28-311.2 Definitions.** As used in this article, the following terms shall have the following meanings:

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 25,000 gross square feet (2323 m²), (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²).

Exceptions: The term "covered building" shall not include:

1. Real property classified as class one pursuant to subdivision one of section eighteen hundred two of the real property tax law; or
2. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than two dwelling units, as certified by a registered design professional to the department.

COVERED TENANT SPACE. (i) A tenant space larger than 5,000 gross square feet (465 m²) on one or more floors of a covered building let or sublet to the same person, or (ii) a floor, of a covered building, larger than 5,000 gross square feet (465 m²) consisting of tenant spaces let or sublet to two or more different persons.

Exception: The term "covered tenant space" shall not include dwelling units classified in occupancy group R-2 or R-3.

METER. A device installed by an electrical utility company or corporation that measures the flow of electricity supplied to a building or to a defined space within a building and used by the utility to bill consumers for electrical service.

SUB-METER. A device meeting the standards of the department or, where applicable, the public service commission, installed within a building's electrical distribution system that measures the flow of electricity within a defined space within the building and that may, but need not, be used for apportioning the cost of electricity among the building's tenants or subtenants.

TENANT SPACE. Space within a covered building that is let or sublet to another person by the owner or a lessee of such space.

**Section 28-311.2 was amended by: [Local Law 132 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-311.3 Sub-meters required for covered tenant spaces.** On and after January 1, 2025, the electrical consumption of each covered tenant space shall be measured by one or more sub-meters. Sub-meters shall be installed in existing covered tenant spaces by the owner or the lessor of such space on or before January 1, 2025 and thereafter as new covered tenant spaces are created within the building. If the covered tenant space is a floor with multiple tenancies, each tenancy that is 5,000 gross square feet (465 m²) or less shall (i) have a separate sub-meter, (ii) share a sub-meter with other tenant spaces on the floor, or (iii) share a sub-meter covering the entire floor.

Exception: Covered tenant space for which the electrical consumption within such space is measured by a meter dedicated exclusively to that space.

**Section 28-311.3 was amended by: [Local Law 132 of 2016](#). This law has an effective date of October 31, 2016.*

§28-311.4 Monthly statements. Each tenant or subtenant within a covered tenant space that has a sub-meter or sub-meters to measure electrical consumption shall be provided with a monthly statement showing the amount of electricity measured by the sub-meter for such tenant or subtenant during the month, and any amount charged to the tenant or subtenant for electricity. If the covered tenant space is a floor with multiple tenancies and the tenant's sub-meter covers other tenant spaces, the statement for such tenant shall show the electrical consumption for the area covered by the sub-meter and the percentage of that area that is leased by the tenant.

***§28-311.5 Reports.** The owner of each covered building shall file a report in accordance with the rules of the department prepared by a registered design professional or a licensed master or special electrician certifying that sub-meters have been installed in all covered tenant spaces in such building as required by this article or that covered tenant spaces are subject to the exception set forth in section 28-311.3. The department may impose a fee for filing and processing such reports.

**Section 28-311.5 was amended by: [Local Law 132 of 2016](#). This law has an effective date of October 31, 2016.*

ARTICLE 312 CARBON MONOXIDE AND SMOKE ALARMS

§28-312.1 General. Required carbon monoxide and smoke alarms shall comply with the provisions of this article.

§28-312.2 Periodic replacement of carbon monoxide alarms. Carbon monoxide alarms required pursuant to section 908.7 of the New York city building code or sections 27-981.1, 27-981.2 and 27-981.3 of the 1968 building code shall be replaced when the time elapsed since the installation of such alarm exceeds the manufacturer's suggested useful life of the alarm.

Exception: A carbon monoxide alarm installed prior to the effective date of this article shall be replaced when the time elapsed since the installation of such alarm exceeds the manufacturer's suggested useful life of the alarm or within 6 months after the effective date of this article, whichever is later.

§28-312.3 Audible notification of expiration of useful life of carbon monoxide alarms. All carbon monoxide alarms installed after the effective date of this article shall comply with UL 2034 and be of a type that emits an audible notification at the expiration of the useful life of such alarm.

28-312.4 Periodic replacement of smoke alarms. Smoke alarms required pursuant to section 907.2 of the New York City building code or sections 27-978, 27-979, 27-980 and 27-981 of the 1968 building code shall be replaced when the time elapsed since the installation of such alarm exceeds the manufacturer's suggested useful life of the alarm.

Exception: A smoke alarm installed prior to the effective date of this section and whose end of useful life is not known shall be replaced with an alarm that complies with section 28-312.5 within 7 years after the effective date of this section.

28-312.5 Audible notification of expiration of useful life of smoke alarms. All smoke alarms installed after the effective date of this section shall comply with UL 217, shall employ a non-removable, non-replaceable battery that powers the alarm for a minimum of 10 years, and shall be of the type that emits an audible notification at the expiration of the useful life of the alarm.

***§28-312.8 Location of smoke alarms and smoke detectors.** On or after January 1, 2021, smoke alarms and smoke detectors installed or replaced in group R occupancies shall be installed in accordance with section 907.2.11.5 of the New York city building code.

**Section 28-312.8 was added by: [Local Law 113 of 2018](#). This law has an effective date of June 9, 2018.*

ARTICLE 313 ACCESSIBILITY

§28-313.1 Retroactive requirement for directional signage at building entrances. The provisions of section 1110.2 of the New York city building code requiring directional signage to be posted at inaccessible building entrances indicating the route to the nearest accessible entrance shall apply retroactively to all buildings that have such accessible entrances. Buildings in existence on the effective date of this section shall post such directional signage on or before August 1, 2013. Such directional signage shall be maintained in good condition.

Exception: Directional signage posted at building entrances in compliance with the americans with disabilities act of 1990 shall be deemed to be in compliance with section 1110.2 of the New York city building code.

§28-313.2 Retroactive requirement for accessible building entrances. The provisions of item 5 of section 1110.1 of the New York city building code requiring signage to be posted at accessible entrances where an inaccessible building entrance exists shall apply retroactively to all buildings that have such accessible entrances. Buildings in existence on the effective date of this section shall post such signage on or before August 1, 2013. Such signage shall be maintained in good condition.

Exception: Accessible entrance signs that are posted at building entrances in compliance with the americans with disabilities act of 1990 shall be deemed to be in compliance with section 1110.1 of the New York city building code subject to the inclusion on or adjacent to such signage of a contact telephone number or instructions to gain access if an otherwise accessible building entrance is subject to locking.

***§28-313.3 Retroactive requirement for signage and safety requirements for portable ramps at inaccessible building entrances where such ramps are permissible.** The provisions of item 7 of section 1110.3 of the New York city building code requiring that signage stating a portable ramp is available, if provided by the building, and the phone number to request such ramp, be posted at inaccessible building entrances shall apply retroactively to all prior code buildings that have such portable ramps where use of such a ramp is permissible. The use of a portable ramp by any building must comply

with all applicable laws, and must comply with Section 405 (Ramps) of ICC A117.1 except to the extent the commissioner has waived a requirement pursuant to section 28-313.3.1. All signage posted pursuant to this section shall comply with Section 1110 of the New York city building code and be maintained in good condition. Nothing in this section shall be construed to authorize the provision of a portable ramp where such provision would not otherwise be lawful.

**Section 28-313.3 was added by [Local Law 122 of 2019](#). This law has an effective date of January 1, 2020.*

***§28-313.3.1 Waiver of requirements related to portable ramps at inaccessible building entrances where such ramps are permissible.** The commissioner may waive the requirement of section 28-313.3 that all portable ramps used by prior code buildings must comply with Section 405 (Ramps) of ICC A117.1, provided, however, that such waiver would not significantly adversely affect safety and that equally safe and proper alternatives are prescribed and, further, that such waiver is based upon a specific finding by the commissioner that strict compliance with the requirement:

1. Would create an undue economic burden;
2. Would not achieve its intended objective;
3. Would be physically or legally impossible;
4. Would be unnecessary in light of alternatives which ensure the achievement of the intended objective or which, without a loss in the level of safety, achieve the intended objective more efficiently, effectively or economically; or
5. Would entail a change so slight as to produce a negligible additional benefit.

**Section 28-313.3.1 was added by [Local Law 122 of 2019](#). This law has an effective date of January 1, 2020.*

***§28-313.3.2 Waiver application process.** Each application for a waiver under section 28-313.3.1 shall be made to the commissioner in writing, setting forth each requirement of Section 405 (Ramps) of ICC A117.1 sought to be waived and the specific reason or reasons therefore. The commissioner shall determine, under all of the circumstances presented by such application, which of such requirements may appropriately be waived. The commissioner shall render such determination in a writing, which shall set forth in detail the commissioner's findings and conclusions with respect to each requirement sought to be waived. A copy of such written determination shall be forwarded to the applicant. Such written determination shall be filed with the department and shall be available for public inspection.

**Section 28-313.3.2 was added by [Local Law 122 of 2019](#). This law has an effective date of January 1, 2020.*

***§28-313.3.3 Waiver recommendation.** The mayor's office for people with disabilities, or its successor agency shall be consulted by and shall advise the commissioner concerning each application for a waiver under section 28-313.3.1.

**Section 28-313.3.3 was added by [Local Law 122 of 2019](#). This law has an effective date of January 1, 2020.*

ARTICLE 314 PERIODIC WASTEWATER RECYCLING SYSTEM INSPECTION AND TESTING

§28-314.1 General. Wastewater recycling systems installed in accordance with section C102 of appendix C of the New York city plumbing code shall be periodically inspected and tested in accordance with this article. This article shall not apply to rainwater recycling systems installed in accordance with section C103 of appendix C of the New York city plumbing code.

§28-314.2 Frequency of inspection and testing. The owner shall test and inspect wastewater recycling systems on a monthly basis. The commissioner may require additional testing and inspections of wastewater recycling systems as necessary to protect public safety.

§28-314.3 Inspection and testing process. Wastewater recycling systems shall be inspected and tested in accordance with sections 28-314.3.1 through 28-314.3.6.

§28-314.3.1 Inspection and testing entities. Required tests performed on behalf of the owner shall be performed by an approved agency with qualifications as set forth in department rules.

§28-314.3.2 Scope. At each test and inspection, in addition to the requirements prescribed by this article, all wastewater treatment equipment provided for operation of wastewater recycling systems shall be inspected to determine that they are in safe operating condition and parts have not worn to such an extent as to affect the safe and reliable operation of

the installation. At each test and inspection, treated effluent from the wastewater recycling system shall be sampled and tested, the results of which shall comply with section C102.1 of the New York city plumbing code.

§28-314.3.3 Notation of inspection or test. After each test and inspection, the inspector shall affix the inspection date and his or her signature over a stamp identifying his or her approved agency and his or her approval number on the inspection certificate issued by the department.

§28-314.3.4 Inspection and test reports submission. Inspection and test reports shall be submitted on forms in such manner as required by the commissioner. Each inspection and test report shall include a listing of all violations for each device inspected and tested associated with the wastewater recycling system. A copy of the report, signed by the inspector performing the inspection and tests shall be delivered to the owner within 30 days of the site visit. All reports shall be kept on file by the approved agency and the owner for a period of at least 6 years.

§28-314.3.5 Reporting an unsafe or hazardous condition. The operation of the system shall immediately cease if any test sample does not meet the minimum water quality standards of Table C102.1 of the New York city plumbing code. The wastewater recycling system shall be placed into start-up mode and testing shall commence for at least five consecutive days demonstrating full compliance. If further inspection and testing reveals that the wastewater recycling system test samples do not meet the minimum water quality standards in table C102.1 of the New York City plumbing code, the system shall be taken out of service immediately by the agency performing the inspection. The building owner shall be notified immediately by the agency performing the inspection. The department shall be notified by the agency that the system has been taken out of service within 24 hours by telephone, electronically, in writing or as otherwise directed by the commissioner.

§28-314.3.6 Repair. All defects and violations identified during the inspection and testing process shall be corrected immediately prior to continuing the operation of the wastewater recycling system.

ARTICLE 315 RETROACTIVE REQUIREMENTS

§28-315.1 General. Buildings must be in compliance with the retroactive requirements of the provisions of this code. Such requirements are listed in this article along with the dates by which compliance must be achieved. The retroactive requirements of the 1968 building code continue in effect under this code in accordance with section 28-102.4.1 of this code. The dates for compliance with the retroactive requirements of the 1968 building code are as set forth in the applicable provisions of such 1968 building code. Failure to comply with a retroactive requirement of this code or of the 1968 building code by the date specified for such compliance is a violation of this code.

§28-315.2 Fire protection systems. The work specified in this section to enhance the fire protection systems of buildings shall be completed by the dates specified herein.

§28-315.2.1 Painting of certain exposed portions of sprinkler systems. The painting of exposed risers, cross connections and handles of valves of sprinkler systems in accordance with the retroactive requirements of section 903.6.3 of the New York city building code shall be completed by June 2, 2010 and certification of such painting shall be maintained in accordance with section 903.6.5 of such code.

§28-315.2.2 Painting of certain exposed portions of standpipe systems. The painting of exposed portions of standpipe systems and handles of valves serving such systems in accordance with the retroactive requirements of section 905.11.3 of the New York city building code shall be completed by June 2, 2010 and certification of such painting shall be maintained in accordance with section 905.11.6 of such code.

***§28-315.2.3 Animal service facilities.** By December 31, 2016, animal service facilities shall comply with the retroactive requirements of section 903.2.2.2 of the New York city Building Code and owners of such facilities shall file with the department a report certifying either that sprinklers have been installed or that the facility is in compliance with one of the exceptions set forth in such section.

**Section 28-315.2.3 was added by: [Local Law 78 of 2015](#). This law has an effective date of December 31, 2015.*

§28-315.3 Sustainability. The work specified in this section to enhance the sustainability of buildings must be completed by the dates specified herein.

***§28-315.3.1 Lighting systems.** By January 1, 2025, the lighting systems of certain buildings shall be in compliance with article 310 of this chapter and the owners of such buildings shall file a report in accordance with the rules of the department, prepared by a registered design professional or a licensed master or special electrician, certifying compliance with such section and compliance with the technical standards of the New York city electrical code. The department may impose a fee for filing and reviewing such reports.

**Section 28-315.3.1 was amended by: [Local Law 134 of 2016](#). This law has an effective date of October 31, 2016.*

***§28-315.3.2 Electrical sub-meters.** By January 1, 2025, the installation of electrical sub-meters in tenant spaces in certain buildings in accordance with article 311 of this chapter shall be completed and the owners of such buildings shall file a report in accordance with the rules of the department, prepared by a registered design professional or a licensed master or special electrician, certifying compliance with such section. The Department may impose a fee for filing and reviewing such reports.

**Section 28-315.3.2 was amended by: [Local Law 132 of 2016](#). This law has an effective date of October 31, 2016. Local Law 132 of 2016 incorrectly amended Section 28-315.3.1; this unintended error will be corrected in future legislation.*

§28-315.4 Elevator safety. The work specified in this section to improve the safety of existing elevators shall be completed by the dates specified herein.

§28-315.4.1 Compliance with ASME A17.3 of 2002. Existing elevators and escalators shall, at a minimum, comply with ASME A17.3 of 2002, as modified by chapter K3 of appendix K of the New York city building code. All work to achieve compliance with such requirements shall be completed by December 14, 2009.

Exceptions:

1. **Spaces below hoistways.** Spaces below hoistways shall be protected in accordance with section 2.5 of chapter K3 of such appendix by December 14, 2010.
2. **Car doors and gates.** Car doors and gates shall be in compliance with section 3.4.2 of chapter K3 of such appendix by December 14, 2012.
3. **Car illumination.** Car illumination shall be in compliance with section 3.4.5 of chapter K3 of such appendix by December 14, 2010.
4. **Traction elevators.** Traction elevators with single plunger brakes shall be in compliance with section 3.8.4.1 of chapter K3 of such appendix by January 1, 2027.
5. **Electrical protective devices.** Electrical protective devices shall be in compliance with section 3.10.4 of chapter K3 of such appendix by December 14, 2010.
6. **Automatic passenger and freight elevators.** Automatic passenger and freight elevators shall be in compliance with section 3.10.12 of chapter K3 of such appendix by January 1, 2020.
7. **Hydraulic elevators.** Hydraulic elevators shall be in compliance with section 4.3.3 of chapter K3 of such appendix by December 14, 2014.
8. **Escalator skirt obstruction devices.** Escalator skirt obstruction devices shall be in compliance with Section 5.3.7 of Chapter K3 of such appendix by January 1, 2014.

§28-315.5 Fuel gas systems. The work specified in this section to enhance the safety of fuel gas systems shall be completed by the dates specified herein.

§28-315.5.1 Outside gas shut-off. Existing gas services shall be provided with an outside emergency shutoff device acceptable to the commissioner and the fire commissioner in accordance with the retroactive requirements of item 1 of section E6 of appendix E of the New York city fuel gas code. Installation of such a device shall be completed no later than January 1, 2010.

Exception: For R-3 occupancies, the installation of such a device shall be completed no later than January 1, 2020.

§28-315.6 Accessibility. The work specified in this section to enhance the accessibility of buildings shall be completed by the dates specified herein.

§28-315.6.1 Directional signage at inaccessible building entrances. The posting of directional signage at inaccessible building entrances in accordance with the retroactive requirements of section 28-313.1 of this code shall be completed on or before August 1, 2013.

§28-315.6.2 Signage at accessible building entrances. The posting of signage at accessible building entrances in accordance with the retroactive requirements of section 28-313.2 of this code shall be completed on or before August 1, 2013.

***§28-315.6.3 Signage for portable ramps at inaccessible building entrances where such ramps are permissible.** The posting of signage for portable ramps at inaccessible building entrances where such a ramp is permissible in accordance with the requirements of item 7 of 1110.3 of the New York city building code shall be completed on or

before March 1, 2020.

**Section 28-315.6.3 was added by [Local Law 122 of 2019](#). This law has an effective date of January 1, 2020.*

§28-315.7 Building security. The work specified in this section to enhance building security shall be completed by the dates specified herein.

§28-315.7.1 Security grilles on buildings in occupancy groups B or M. Security grilles abutting sidewalks on buildings in occupancy groups B or M shall comply with the retroactive requirements of item 4 of section 1008.1.4.5 of the New York city building code. On and after July 1, 2026, such grilles when closed shall permit visibility from the sidewalk of at least 70 percent of the area covered by such grille.

§28-315.8 Resiliency. The work specified in this section to enhance building resiliency shall be completed by the dates specified herein.

§28-315.8.1 Emergency source of water for residential occupancies. Within 8 years after the effective date of this section, existing buildings greater than five stories in occupancy groups I-1, R-1, R-2, and R-3 that supply potable water from the public water main to occupants with the assistance of pumps, other than pumps connected to an emergency or a standby power system that complies with the requirements of chapter 27 of the New York city building code, shall be equipped with additional fixtures capable of supplying potable water to occupants utilizing only the available pressure from the public water main in compliance with section 614 of the New York city plumbing code.

§28-315.8.2 Connections for temporary external generators. For the following buildings, the provision of connections for temporary external generators in accordance with the retroactive requirements of section G311.2 of appendix G of the New York city building code shall be completed by January 1, 2033, and a report detailing compliance with such requirements shall be filed with the department in accordance with section G311.2.2 by such date:

1. Buildings whose main use or dominant occupancy is group I-1 and that are located in an area of special flood hazard, as such term is defined in appendix G of the New York city building code;
2. Buildings whose main use or dominant occupancy is an adult home, enriched housing, community residence or intermediate care facility classified as occupancy group R pursuant to an exception to section 308.2.1 or 308.2.2 of the New York city building code and that are located in an area of special flood hazard, as such term is defined in appendix G of the New York city building code;
3. Buildings whose main use or dominant occupancy is group I-2 hospital and that are located in an area of special flood hazard or shaded X-Zone, as such terms are defined in appendix G of the New York city building code;
4. Buildings whose main use or dominant occupancy is group I-2 nursing home and that are located in an area of special flood hazard, as such term is defined in appendix G of the New York city building code; and
5. Buildings whose main use or dominant occupancy is group I-2, other than hospitals and nursing homes, and that are located in an area of special flood hazard, as such term is defined in appendix G of the New York city building code.

§28-315.8.2.1 Modification to the area of special flood hazard or shaded X-Zone. Where the area of special flood hazard or shaded X-Zone, as established in appendix G of the New York city building code, is modified on or after the effective date of this section, any building identified in section 28-315.8.2 and newly identified as being within such modified area of special flood hazard or shaded X-Zone shall, no later than 20 years following the adoption of such modification, comply with the retroactive requirements of section G311.2 of appendix G of the New York city building code. The owner of such building shall, no later than 20 years following the adoption of such modification, file with the department a report detailing compliance with such requirements in accordance with section G311.2.2.

§28-315.8.3 Connections for temporary external boilers and chillers. For buildings whose main use or dominant occupancy is group I-2 hospital and that are located in an area of special flood hazard or shaded X-Zone, as such terms are defined in appendix G of the New York city building code, the provision of connections for temporary external boilers and chillers in accordance with the retroactive requirements of section G311.3 of appendix G of the New York city building code shall be completed by January 1, 2033, and a report detailing compliance with such requirements shall be filed with the department in accordance with section G311.3.2 by such date.

§28-315.8.3.1 Modification to the area of special flood hazard or shaded X-Zone. Where the area of special flood hazard or shaded X-Zone, as established in appendix G of the New York city building code, is modified on or after the effective date of this section, any building whose main use or dominant occupancy is group I-2 hospital

and that is newly identified as being within such modified area of special flood hazard or shaded X-Zone shall, no later than 20 years following the adoption of such modification, comply with the retroactive requirements of section G311.3 of appendix G of the New York city building code. The owner of such building shall, no later than 20 years following the adoption of such modification, file with the department a report detailing compliance with such requirements in accordance with section G311.3.2.

***§28-315.9 Single-occupant toilet rooms.** Notwithstanding any other provision of law or rule requiring separate facilities for each sex, on and after January 1, 2017, all single-occupant toilet rooms shall be made available for use by persons of any sex in accordance with section 403.2.1 of the New York city plumbing code. Nothing in this section shall be construed to require physical alteration of a single-occupant toilet room except for the posting and maintenance of appropriate signage in accordance with section 403.4 of the New York city plumbing code.

**Section 28-315.9 was added by: [Local Law 79 of 2016](#). This law has an effective date of October 26, 2016.*

****§28-315.10 Self-closing doors.** All doors providing access to interior corridors or stairs in occupancy groups R-1 and R-2 shall be equipped with a device that will ensure the door, when opened and released, returns to the closed position and self-latches shut by July 31, 2021.

**Section 28-315.10 was added by: [Local Law 111 of 2018](#). This law has an effective date of June 9, 2018.*

***Section 28-315.10 was amended by: [Local Law 63 of 2022](#). This law has an effective date of July 16, 2022.*

****§28-315.11 Buildings that are equipped with a fire alarm system and that contain Group A-1, A-2, A-3, Group B or Group M occupancies.** By July 1, 2021, existing buildings equipped with a fire alarm system and that contain group A-1, A-2 or A-3, Group B or Group M occupancies shall comply with the retroactive requirements of section 908.7.3.1 of the New York city building code.

**Section 28-315.11 was added by: [Local Law 191 of 2018](#). This law has an effective date of August 28, 2019.*

***Section 28-315.11 was amended by: [Local Law 13 of 2021](#). This law has an effective date of January 1, 2021.*

ARTICLE 316

INSULATION OF CONCEALED PIPES EXPOSED DURING ALTERATION OR REPAIR

§28-316.1 Required insulation of certain concealed piping exposed during alteration or repair. Where concealed existing piping is exposed in the course of the alteration or repair of a building, the owner of the building shall provide for the insulation of the exposed piping. The exposed piping shall be insulated to the extent required by the New York city energy conservation code for newly installed pipe of the same specifications and serving the same function as the exposed pipe. The entire exposed length of the piping shall be insulated as well as any further length of concealed pipe that can be directly accessed through openings made in the course of such alteration or repair.

Exceptions:

1. Exposed pipe with one-inch (25-mm) thick continuous coverage of existing insulation in good condition.
2. Where the length of concealed pipe which may be directly accessed through openings made in the course of such alteration or repair is less than three feet (914 mm).
3. Where there is not sufficient space to insulate pipes to the extent required by the New York city energy conservation code due to conflicts with existing construction, pipes shall be insulated to the extent that space allows.

*ARTICLE 317

COOLING TOWERS

**Section 28-317 was added by: [Local Law 77 of 2015](#). This law has an effective date of August 18, 2015.*

***§28-317.1 General.** All owners of cooling towers shall comply with this article and the rules of the department.

**Section 28-317.1 was added by: [Local Law 77 of 2015](#). This law has an effective date of August 18, 2015.*

***§28-317.2 Definitions.** As used in this article, the following terms shall have the following meanings:

COOLING TOWER. The term "cooling tower" means a cooling tower, evaporative condenser or fluid cooler that is part of a recirculated water system incorporated into a building's cooling, industrial process, refrigeration, or energy production system.

**Section 28-317.2 was added by: [Local Law 77 of 2015](#). This law has an effective date of August 18, 2015.*

***§28-317.3 Registration.** All owners of cooling towers shall register such towers with the department prior to initial operation in a form and manner as required by the commissioner and shall include, at a minimum, the following information:

1. Address of the building at which the cooling tower is located;
2. Intended use of cooling tower;
3. Name, address, telephone number and email address of owner;
4. Manufacturer of the cooling tower;
5. Model number of the cooling tower;
6. Specific unit serial number of the cooling tower;
7. Cooling capacity (tonnage) of the cooling tower;
8. Basin capacity of the cooling tower; and
9. Commissioning date of the cooling tower.

Exception: Owners of existing cooling towers shall register such towers within 30 days after the effective date of this section.

***§28-317.3.1 Discontinued use.** The owner or operator of a cooling tower shall notify the department within 30 days after removing or permanently discontinuing use of a cooling tower. Such notice shall include a statement that such cooling tower has been drained and sanitized in compliance with the requirements of the department of health and mental hygiene for discontinuance of a cooling tower.

**Sections 28-317.3 & 28-317.3.1 were added by: [Local Law 77 of 2015](#). This law has an effective date of August 18, 2015.*

***§28-317.4 Inspecting, cleaning, disinfecting and testing.** All cooling towers shall be inspected, tested, cleaned and disinfected in accordance with section 17-194.1 of the administrative code and the rules of the department of health and mental hygiene.

**Section 28-317 was added by: [Local Law 77 of 2015](#). This section shall take effect upon the promulgation of rules by the Department of Health and Mental Hygiene.*

****§28-317.5 Annual certification.** The owner or operator of a cooling tower shall file an annual certification that such cooling tower was inspected, tested, cleaned and disinfected in compliance with section 17-194.1 of the administrative code and the rules of the department of health and mental hygiene, and that a maintenance program and plan has been developed and implemented as required by such section. Such certification shall be submitted by November 1, 2016 and by November 1 of each year thereafter, or by a date otherwise specified in the rules of the department. The department of health and mental hygiene shall send an electronic reminder to each owner or operator of a cooling tower at least 30 days before such certification submission deadline. Such electronic reminder shall include a link to the website where such certification may be submitted.

***Section 28-317.7 was added by: [Local Law 77 of 2015](#). This law has an effective date of August 18, 2015. Section 28-317.7 was amended by: [Local Law 76 of 2019](#). This law has an effective date of October 25, 2019.*

***§28-317.6 Fees.** The department may charge filing fees for registration, discontinuing of use and annual certification as set forth in the rules of the department.

**Section 28-317.7 was added by: [Local Law 77 of 2015](#). This law has an effective date of August 18, 2015.*

***§28-317.7 Enforcement.** Failure to register a cooling tower or submit a certification or statement required by this article shall be classified as a major violation.

**Section 28-317.7 was added by: [Local Law 77 of 2015](#). This law has an effective date of August 18, 2015.*

***ARTICLE 318**

PERIODIC INSPECTION OF GAS PIPING SYSTEMS

**Section 28-318 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

****§28-318.1 General.** Commencing January 1, 2019, building gas piping systems, other than gas piping systems of buildings classified in occupancy group R-3, shall be periodically inspected in accordance with this article.

Exceptions:

1. A building that contains no gas piping and for which the owner of such building has submitted to the commissioner, in a form and manner determined by the commissioner, a certificate of a registered design professional, a licensed master plumber or an individual under the direct and continuing supervision of a licensed master plumber, or a person satisfying other qualifications that the commissioner may establish, that such building contains no gas piping.
2. A building that contains gas piping but that is not currently supplied with gas, that does not contain any appliance connected to any gas piping and that complies with section 28-318.3.5.

**Section 28-318.1 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***Section 28-318.1 was amended by: [Local Law 138 of 2021](#). This law has an effective date retroactive to January 1, 2020.*

***§28-318.2 Frequency of inspection.** An inspection of a building's gas piping system shall be conducted at periodic intervals as set forth by rule of the commissioner, but such inspection shall be conducted at least once every five years.

Exceptions:

1. If the New York state public service commission adopts a rule or other requirement for periodic inspections of service lines, as defined in section 255.3 of title 16 of the New York codes, rules and regulations, with a frequency other than five years, the commissioner may, by rule, require that the periodic inspections required by this article be conducted with such frequency.
2. The initial inspection for a new building shall be conducted in the tenth year after the earlier of (i) the issuance by the department of a letter of completion or, if applicable, a temporary or final certificate of occupancy for such building or (ii) the date such building was completed as determined by department rule.

**Section 28-318.2 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***§28-318.3 Inspection process.** Gas piping systems shall be inspected and tested in accordance with sections 28-318.3.1 through 28-318.3.4.

**Section 28-318.3 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***§28-318.3.1 Inspection entity.** Inspections of gas piping systems shall be conducted on behalf of the building owner by a licensed master plumber or by an individual under the direct and continuing supervision of a licensed master plumber, with appropriate qualifications as prescribed by department rule.

**Section 28-318.3.1 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***§28-318.3.2 Scope.** At each inspection, in addition to the requirements prescribed by this article or by the commissioner, all exposed gas lines from point of entry of gas piping into a building, including building service meters, up to individual tenant spaces shall be inspected for evidence of excessive atmospheric corrosion or piping deterioration that has resulted in a dangerous condition, illegal connections, and non-code compliant installations. The inspection entity shall also test public spaces, hallways, corridors, and mechanical and boiler rooms with a portable combustible gas detector to determine if there is any gas leak, provided that such testing need only include public spaces, hallways and corridors on floors that contain gas piping or gas utilization equipment.

**Section 28-318.3.2 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

****§28-318.3.3 Report and certificate of inspection.** The inspection entity conducting an inspection of a building pursuant to this article and the owner of such building shall comply with the following requirements:

1. No later than 30 days after such inspection, such inspection entity shall submit to such owner (i) a report of such inspection, on a form and in a manner determined by the department, and (ii) a certification of the licensed master plumber who performed or exercised direct and continuing supervision over such inspection that an inspection pursuant to this article has been completed for such building. Such report shall be certified by such licensed master plumber and, where applicable, by any individual who performed such inspections under the direct and continuing supervision of such licensed master plumber, and shall include, for each gas piping system inspected, a list of conditions including instances where a part or parts of such system is worn to such an extent that the safe and reliable operation of such system may be affected, gas leaks, any observed non-code compliant installations or illegal connections, any conditions described in section 28-318.3.4 and any additional information required by the department.

2. No later than the due date for such inspection, in accordance with department rules, and no earlier than 60 days before such due date, such owner shall submit a certification from a licensed master plumber that an inspection pursuant to this article has been completed by such licensed master plumber for such building, provided that the department may by rule establish an alternative timeframe for such submissions.
3. No later than 90 days after the due date for such inspection, in accordance with department rules, such owner shall electronically submit, or cause to be submitted by such inspection entity, such report to the utility company providing gas service to such building. Such submission shall only be required if, before the date that such submission would be required, the department has determined and set forth in a rule that such utility company will accept such electronic submission at no cost to such owner.
4. No later than 120 days after the due date for such inspection, in accordance with department rules, such owner shall submit to the department, in a form and manner determined by the department, (i) a certification from a licensed master plumber that all conditions that were identified in the inspection report for which a certification was submitted pursuant to item 2 of this section have been corrected, except that such certification may note that correction of one or more conditions identified in such report, other than conditions referred to in section 28-318.3.4, will reasonably take additional time to complete and (ii) a certification from such owner that such owner is in compliance with item 3 of this section. If such certification notes that one or more conditions will take additional time to complete, such owner shall, no later than 180 days after the due date for such inspection, or by such later date as the department shall determine, submit to the department, in a form and manner determined by the department, a certification from a licensed master plumber that all conditions identified in such report have been corrected.
5. All reports and certifications required by this section shall be kept on file by the inspection entity and the building owner for at least eight years after the date of inspection and made available to the department at the department's request.

**Section 28-318.3.3 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***Section 28-318.3.3 was amended by: [Local Law 138 of 2021](#). This law has an effective date retroactive to January 1, 2020.*

***§28-318.3.4 Reporting and correction of unsafe or hazardous condition.** If an inspection reveals any of the following conditions, the inspection entity shall notify the building owner, the utility and the department immediately and the building owner shall immediately take action to correct such condition in compliance with the New York city construction codes:

1. A gas leak;
2. Evidence of illegal connections or non-code compliant installations; or
3. Any other condition which (i) if verified by a utility company or utility corporation, would constitute a class A condition as described in part 261 of title 16 of the New York codes, rules and regulations or (ii) constitutes an imminently dangerous condition.

**Section 28-318.3.4 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***§28-318.3.5 Buildings without active gas service.** A building otherwise required to undergo an inspection pursuant to section 28-318.1 that is not currently supplied with gas, and that has no appliance connected to any gas piping, shall not be required to undergo such inspection when the following is submitted to the department:

1. A signed statement from a person with authority to sign such statement on behalf of any utility company that would be responsible for the provision of gas service if such service were provided containing the following:
 - 1.1. The last date upon which gas was supplied to the building; and
 - 1.2. The date upon which gas service was no longer provided to the building.
2. A signed statement from the owner of such building containing the following:
 - 2.1. A certification that the building no longer receives gas service; and
 - 2.2. A certification that the building no longer contains appliances connected to gas piping.

**Section 28-318.3.5 was added by: [Local Law 138 of 2021](#). This law has an effective date retroactive to January 1, 2020.*

***§28-318.3.6 Resumption of service.** Where the owner of a building that has complied with section 28-318.3.5 seeks to resume gas service to such building, the owner must:

1. Obtain a certificate of approval of gas installation from the department; and
2. Comply with the inspection and certification requirements of sections 28-318.1, 28-318.2 and 28-318.3 and the rules of the department before gas service is resumed, regardless of whether such inspection and certification would otherwise be required for that building at that time.

**Section 28-318.3.6 was added by: [Local Law 138 of 2021](#). This law has an effective date retroactive to January 1, 2020.*

***§28-318.3.7 Extension of time to complete inspection.** Owners who are unable to obtain an inspection of a building pursuant to this article by the date set forth in the rules of the department may receive a 180 day extension of the due date for such inspection, and the filing of any certification required to be filed after such inspection, upon notification to the department in a manner established by the department. The department shall conduct periodic outreach to owners of buildings with gas piping systems that must be inspected pursuant to this article regarding availability of this extension.

**Section 28-318.3.7 was added by: [Local Law 138 of 2021](#). This law has an effective date of March 21, 2022.*

***§28-318.4 Fees.** The department may charge filing fees for the certifications required by section 28-318.3.3, as set forth in the rules of the department.

**Section 28-318.4 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***§28-318.5 Enforcement.** Failure to submit a certification required by this article shall be classified as a major violation.

**Section 28-318.5 was added by: [Local Law 152 of 2016](#). This law has an effective date of December 6, 2016.*

***ARTICLE 319 MAINTENANCE AND REMOVAL OF SMALL WIND TURBINES**

**Section 28-319 was added by: [Local Law 105 of 2018](#). This law has an effective date of November 25, 2018.*

***§28-319.1 Maintenance.** The owner of a small wind turbine or small wind turbine tower, as such terms are defined in section 3113.2 of the New York city building code, shall maintain such turbine and tower in accordance with department rules.

**Section 28-319.1 was added by: [Local Law 105 of 2018](#). This law has an effective date of November 25, 2018.*

***§28-319.2 Removal.** The owner of a small wind turbine, as such term is defined in section 3113.2 of the New York city building code, shall remove such turbine when (i) the time elapsed since installation exceeds the manufacturer's suggested useful life of such turbine or (ii) such turbine has been continuously inoperable for 12 months or more, whichever occurs sooner, provided that the commissioner shall by rule establish a timeframe for removing small wind turbines that do not have manufacturer's suggested useful lives.

**Section 28-319.2 was added by: [Local Law 105 of 2018](#). This law has an effective date of November 25, 2018.*

***ARTICLE 320 BUILDING ENERGY AND EMISSIONS LIMITS**

**Article 320 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.1 Definitions.** As used in this article, the following terms shall have the following meanings:

***BUILDING EMISSIONS.** The term “building emissions” means greenhouse gas emissions as expressed in metric tons of carbon dioxide equivalent emitted as a result of operating a covered building and calculated in accordance with rules promulgated by the department in consultation with the mayor’s office of long term planning and sustainability. The term “building emissions” shall not include greenhouse gas emissions emitted during a local state of emergency declared by the mayor pursuant to section 24 of the executive law or a state of emergency declared by the governor pursuant to sections 28 of the executive law, where such local or state emergency has an impact on building emissions.

***BUILDING EMISSIONS INTENSITY.** The term “building emissions intensity” means, for a covered building, the number obtained by dividing the building emissions by the gross floor area for such building, expressed in metric tons of carbon dioxide equivalent per square foot per year.

****CAPACITY RESOURCE.** The term “capacity resource” means a facility that has the capability to generate and transmit electrical power and sell capacity (i) by bilateral contracts, (ii) in the wholesale capacity market, or (iii) by indirect sales of capacity in the wholesale market in accordance with the schedules of rates and charges of a utility in effect pursuant to section 66 of the public service law.

***CARBON DIOXIDE EQUIVALENT.** The term “carbon dioxide equivalent” means the metric used to compare the emissions of various greenhouse gases based upon their global warming potential as defined in the Intergovernmental Panel on Climate Change Fifth Assessment Report (2014).

****CITY BUILDING.** The term “city building” means a building that is owned by the city or for which the city regularly pays all of the annual energy bills, or a cultural institution that is in the Cultural Institutions Group as determined by the department of cultural affairs for which the city regularly pays all or part of the annual energy bills.

Exception: The term “city building” shall not include any senior college in the city university of New York system.

****CLEAN DISTRIBUTED ENERGY RESOURCE.** The term “clean distributed energy resource” means a distributed energy resource that (i) uses any of the following sources to generate electricity: hydropower, solar photovoltaics, geothermal wells or loops, tidal action, waves or water currents, or wind; or (ii) is designed and operated to store energy, including but not limited to batteries, thermal systems, mechanical systems, compressed air, and superconducting equipment.

****COVERED BUILDING.** The term “covered building” means, as it appears in the records of the department of finance, (i) a building that exceeds 25,000 gross square feet (2322.5 m²) or (ii) two or more buildings on the same tax lot that together exceed 50,000 gross square feet (4645 m²), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet (4645 m²).

Exceptions:

1. An industrial facility primarily used for the generation of electric power or steam.
2. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than 25,000 gross square feet (2322.5 m²), as certified by a registered design professional to the department.
3. A city building.
4. A housing development or building on land owned by the New York city housing authority
5. A rent regulated accommodation.
6. A building whose main use or dominant occupancy is classified as occupancy group A-3 religious house of worship.
7. Real property owned by a housing development fund company organized pursuant to the business corporation law and article eleven of the private housing finance law.
8. A building that participates in a project-based federal housing program.

****DISTRIBUTED ENERGY RESOURCE.** The term “distributed energy resource” means a resource comprised of one or multiple units capable of generating or storing electricity, all at a single location that is directly or indirectly connected to an electric utility transmission and distribution system. The resource may serve all or part of the electric load of one or more customers at the same location, and it may simultaneously or alternatively transmit all or part of the electricity it generates or stores onto the electric transmission and distribution system for sale to or use by other customers at other locations.

***GREENHOUSE GAS.** The term “greenhouse gas” means a unit of greenhouse gas, including carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆), and nitrogen trifluoride (NF₃).

***GREENHOUSE GAS OFFSET.** The term “greenhouse gas offset” means a credit representing one metric ton of carbon dioxide equivalent emissions reduced, avoided, or sequestered by a project from a measured baseline of emissions and which has been verified by an independent, qualified third party in accordance with offset standards referenced by rules of the department.

****FINANCIAL HARDSHIP (OF A BUILDING).** The term “financial hardship (of a building)” means a building that for the combined two years prior to the application for an adjustment to annual building emissions limit pursuant to section 28-320.7:

1. Had arrears of property taxes or water or wastewater charges that resulted in the property's inclusion on the department of finance's annual New York city tax lien sale list;
2. Had been exempt from real property taxes pursuant to sections 420-a, 420-b, 446 or 462 of the real property tax law and applicable local law and the owner had negative revenue less expenses as certified to the department by a certified public accountant, or by affidavit under penalties of perjury; or
3. Had outstanding balances under the department of housing preservation and development's emergency repair program that resulted in the property's inclusion on the department of finance's annual New York city tax lien sale list.

***METRIC TONS OF CARBON DIOXIDE EQUIVALENT.** The term “metric tons of carbon dioxide equivalent” means the global standard unit in carbon accounting to quantify greenhouse gas emissions, also expressed as tCO₂e.

***RENEWABLE ENERGY CREDIT.** The term “renewable energy credit” means a certificate representing the environmental, social and other non-power attributes of one megawatt-hour of electricity generated from a renewable energy resource, which certificate is recognized and tradable or transferable within national renewable energy markets or the New York generation attribute tracking system. This term also means the environmental, social, and other non-power attributes of one megawatt-hour of electricity generated from a hydropower resource that does not trade or transfer renewable energy certificates for those hydropower resources in any renewable energy market or via the New York generation attribute tracking system, provided that the hydropower resource owner certifies the amount of energy produced in each reporting year and that it has not sold the non-power attributes equal to its energy production more than once.

*****RENT REGULATED ACCOMMODATION.** The term “rent regulated accommodation” means a building in which more than 35% of dwelling units are required by law or by an agreement with a governmental entity to be regulated in accordance with the emergency tenant protection act of 1974, the rent stabilization law of 1969, or the local emergency housing rent control act of 1962.

**Section 28-320.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.1 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****Section 28-320.1 was amended by: [Local Law 116 of 2020](#). This law has an effective date of November 17, 2020.*

****§28-320.2 Advisory board.** There shall be an advisory board convened by the office of building energy and emissions performance upon the effective date of this article, in January of 2029 and in January of 2039, to provide advice and recommendations to the commissioner and to the mayor’s office of long term planning and sustainability relating to effectively reducing greenhouse gas emissions from buildings. Such recommendations shall include, but not be limited to:

1. A report to be delivered to the mayor and 1. A report and recommendations to be delivered to the mayor and the speaker of the city council no later than January 1, 2023 for additional or improved approaches to assessing building energy performance. Such report shall include, but not be limited to:
 - 1.1. An approach for buildings to submit energy use or greenhouse gas emissions and other information for the purpose of assessing energy performance of covered buildings;
 - 1.2. A methodology that includes the metric of measure, adjustments to the metric, the approach to comparing the output to a benchmark, alternative compliance paths, credit for beneficial electrification and distributed energy resources, and an approach for a trading mechanism as described in section 28-320.11;
 - 1.3. Recommendations for addressing tenant-controlled energy usage;
 - 1.4. Recommendations for amendments to the audit required under section 28-308.2 of the administrative code, including consideration of whether such audit should be replaced by a capital plan;
 - 1.5. Recommendations for reducing building emissions from rent regulated accommodations;
 - 1.6. Recommendations for allowing additional time to comply with the emissions limits for buildings converting to a new occupancy group or use with lower emissions limits or some other change in status that would affect applicability of the provisions of this article;
 - 1.7. An evaluation of the extent to which the mayor’s 80x50 energy infrastructure pathways study is incorporated and addressed within the recommendations made pursuant to items 1.1 through 1.6 of this section; and
 - 1.8. A reference guide to delineate the responsibilities of the building designer and owners to comply with emissions limits.

2. A report to be delivered to the mayor and the speaker of the city council no later than January 1, 2023, providing an analysis of, and any recommendations for improving, energy and emissions performance requirements for covered buildings. Such recommendations shall be targeted to achieve at least a 40 percent reduction in aggregate greenhouse gas emissions from covered buildings by calendar year 2030 relative to such emissions for the calendar year 2005. Such report shall include, but not be limited to assessments of:
 - 2.1. Incentives for reduction of peak energy demand;
 - 2.2. Methods to allow for staggered reporting cycles for compliance with energy and emissions performance improvements;
 - 2.3. Methods for calculating penalties for non-compliance;
 - 2.4. Estimated emissions reductions associated with any recommended energy performance requirements;
 - 2.5. The economic impact, including benefits, of achieving the energy and emissions performance requirements;
 - 2.6. Methods for achieving earlier or larger reductions from city buildings;
 - 2.7. Separate improvement targets for base building energy systems and tenant-controlled energy systems;
 - 2.8. Methods for achieving emissions reductions from manufacturing and industrial processes; and
 - 2.9. Methods for achieving emissions reductions from hospitals while maintaining critical care for human health and safety.

**Section 28-320.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.2 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.2.1 Advisory board composition.** Such advisory board shall be staffed with registered design professionals and be composed of 19 members as follows: the chairperson, the speaker of the council or the speaker's designee, the mayor or mayor's designee, eight members appointed by the mayor, and eight members appointed by the speaker of the council. The mayor shall appoint one architect, one engineer, one building owner or manager, one public utility industry representative, one environmental justice representative, one business sector representative, one residential tenant representative, and one environmental advocacy organization representative. The speaker shall appoint one architect, one stationary engineer, one construction trades representative, one green energy industry representative, one residential tenant representative, one environmental justice organization representative, one environmental advocacy representative and one not for profit organization representative. The director of such office, or the designee of such director, shall serve as chairperson of the advisory board. The advisory board may convene in working groups. Such working groups may include individuals not on such advisory board to address the recommendations required by this article. The mayor shall invite the appropriate federal, state and local agencies and authorities to participate, including but not limited to the New York state energy research and development authority. Such advisory board shall convene a working group on hospitals that shall be composed of engineers, architects, and hospital industry representatives.

**Section 28-320.2.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.2.1 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.3 Building emissions limits.** Except as otherwise provided in this article, or otherwise provided by rule, on and after January 1, 2024 a covered building shall not have annual building emissions higher than the annual building emissions limit for such building as determined in accordance with this section based on the occupancy group of the building.

**Section 28-320.3 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.3.1 Annual building emissions limits 2024-2029.** For calendar years 2024 through 2029 the annual building emissions limits for covered buildings shall be calculated pursuant to items 1 through 10 of this section. For the purposes of such calculation the department shall provide a method for converting categories of uses under the United States environmental protection agency Portfolio Manager tool to the equivalent uses and occupancy groups set forth in this section. For a covered building with spaces classified in more than one occupancy group, the annual building emissions limit shall be the sum of the calculated values from items 1 through 10 of this paragraph, as applicable for each space.

1. For spaces classified as occupancy group A: multiply the building emissions intensity limit of 0.01074 tCO₂e/sf by the corresponding gross floor area (sf);
2. For spaces classified as occupancy group B other than as described in item 6: multiply the building emissions intensity limit of 0.00846 tCO₂e/sf by the corresponding gross floor area (sf);

3. For spaces classified as occupancy groups E and I-4: multiply the building emissions intensity limit of 0.00758 tCO₂e/sf by the corresponding gross floor area (sf);
4. For spaces classified as occupancy group I-1: multiply the building emissions intensity limit of 0.01138 tCO₂e/sf by the corresponding gross floor area (sf);
5. For spaces classified as occupancy group F: multiply the building emissions intensity limit of 0.00574 tCO₂e/sf by the corresponding gross floor area (sf);
6. For spaces classified as occupancy groups B civic administrative facility for emergency response services, B non-production laboratory, Group B ambulatory health care facility, H, I-2 and I-3: multiply the building emissions intensity limit of 0.02381 tCO₂e/sf by the corresponding gross floor area (sf);
7. For spaces classified as occupancy group M: multiply the building emissions intensity limit of 0.01181 tCO₂e/sf by the corresponding gross floor area (sf);
8. For spaces classified as occupancy group R-1: multiply the building emissions intensity limit of 0.00987 tCO₂e/sf by the corresponding gross floor area (sf);
9. For spaces classified as occupancy group R-2: multiply the building emissions intensity limit of 0.00675 tCO₂e/sf by the corresponding gross floor area (sf);
10. For spaces classified as occupancy groups S and U: multiply the building emissions intensity limit of 0.00426 tCO₂e/sf by the corresponding gross floor area (sf).

**Section 28-320.3.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

*****§28-320.3.1.1 Greenhouse gas coefficient of energy consumption for calendar years 2024 through 2029.**

The annual building emissions of a covered building in accordance with this section, greenhouse gas emissions shall be calculated as follows for calendar years 2024 through 2029:

1. Utility electricity consumed on the premises of a covered building that is delivered to the building via the electric grid shall be calculated as generating 0.000288962 tCO₂e per kilowatt hour or, at the owner's option, shall be calculated based on time of use in accordance with referenced emissions factors promulgated by rules of the department. The department, in consultation with the office of long term planning and sustainability, shall promulgate rules governing the calculation of greenhouse gas emissions for campus-style electric systems that share on-site generation but make use of the utility distribution system and for buildings that are not connected to the utility distribution system.
2. Natural gas combusted on the premises of a covered building shall be calculated as generating 0.00005311 tCO₂e per kbtu.
3. #2 fuel oil combusted on the premises of a covered building shall be calculated as generating 0.00007421 tCO₂e per kbtu.
4. #4 fuel oil combusted on the premises of a covered building shall be calculated as generating 0.00007529 tCO₂e per kbtu.
5. District steam consumed on the premises of a covered building shall be calculated as generating 0.00004493tCO₂e per kbtu.
6. The amount of greenhouse gas emissions attributable to natural gas powered fuel cells shall be credited compared to the electricity grid marginal emissions factor that will be determined by the commissioner and promulgated into rules of the department.

Exception: Natural gas powered fuel cells that commence operation prior to the later of January 1, 2023 or the promulgation of such rules, shall be credited compared to the electricity grid marginal emissions factor published in the most recent New York state energy research and development authority renewable energy standard program impact evaluation and clean energy standard triennial review; or a successor to such report issued by the New York state energy research and development authority.

7. The amount of greenhouse gas emissions attributable to other energy sources, including but not limited to distributed energy resources, shall be determined by the commissioner and promulgated into rules of the department.

**Section 28-320.3.1.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.1.1 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****Section 28-320.3.1.1 was amended by: [Local Law 95 of 2020](#). This law has an effective date of September 27, 2020.*

****§28-320.3.2 Building emissions limits for calendar years 2030 through 2034.** For calendar years 2030 through 2034 the annual building emissions limits for covered buildings shall be calculated pursuant to items 1 through 10 of this section. For the purposes of such calculation the department shall provide a method for converting categories of uses under the United States environmental protection agency Portfolio Manager tool to the equivalent uses and occupancy groups set forth in this section. For a covered building with spaces classified in more than one occupancy group, the annual building emissions limit shall be the sum of the calculated values from items 1 through 10 of this paragraph, as applicable for each space. The department may establish different limits, including a different metric or method of calculation, set forth in the rules of the department, where the department determines that different limits are feasible and in the public interest. Where such limits are set by rule, the average emission limits for all covered buildings shall not be less restrictive than the average emissions impact of the building emissions limits outlined in items 1 through 10 of this section. The advisory board and the office of long term planning and sustainability shall provide advice and recommendation regarding such limits.

1. For spaces classified as occupancy group A: multiply the building emissions intensity limit of 0.00420 tCO₂e/sf by the corresponding gross floor area (sf);
2. For spaces classified as occupancy group B other than as described in item 6: multiply the building emissions intensity limit of 0.00453 tCO₂e/sf by the corresponding gross floor area (sf);
3. For spaces classified as occupancy groups E and I-4: multiply the building emissions intensity limit of 0.00344 tCO₂e/sf by the corresponding gross floor area (sf);
4. For spaces classified as occupancy group I-1: multiply the building emissions intensity limit of 0.00598 tCO₂e/sf by the corresponding gross floor area (sf);
5. For spaces classified as occupancy group F: multiply the building emissions intensity limit of 0.00167 tCO₂e/sf by the corresponding gross floor area (sf);
6. For spaces classified as occupancy groups B civic administrative facility for emergency response services, B non-production laboratory, Group B ambulatory health care facility, H, I-2 or I-3: multiply the building emissions intensity limit of 0.01330 tCO₂e/sf by the corresponding gross floor area (sf);
7. For spaces classified as occupancy group M: multiply the building emissions intensity limit of 0.00403 tCO₂e/sf by the corresponding gross floor area (sf);
8. For spaces classified as occupancy group R-1: multiply the building emissions intensity limit of 0.00526 tCO₂e/sf by the corresponding gross floor area (sf);
9. For spaces classified as occupancy groups R-2: multiply the building emissions intensity limit of 0.00407 tCO₂e/sf by the corresponding gross floor area (sf);
10. For spaces classified as occupancy groups S and U: multiply the building emissions intensity limit of 0.00110 tCO₂e/sf by the corresponding gross floor area (sf).

**Section 28-320.3.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.2 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

*****§28-320.3.2.1 Greenhouse gas coefficients of energy consumption for calendar years 2030 through 2034.** For the purposes of calculating the annual building emissions of a covered building in accordance with this section, the amount of greenhouse gas emissions attributed to particular energy sources shall be determined by the commissioner and promulgated into rules of the department by no later than January 1, 2023. The commissioner shall consult with the advisory board required by this article to develop such greenhouse gas coefficients for utility electricity consumption. When developing such coefficients, the commissioner shall consider factors, including but not limited to the best available New York state energy research and development authority and State Energy Plan marginal forecasts for Zone J for the end of the compliance period and beneficial electrification.

**Section 28-320.3.2.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.2.1 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****Section 28-320.3.2.1 was amended by: [Local Law 95 of 2020](#). This law has an effective date of September 27, 2020.*

***§28-320.3.4 Building emissions limits for calendar years 2035 through 2050.** No later than January 1, 2023, the commissioner shall establish by rule annual building emissions limits and building emissions intensity limits applicable for calendar years 2035 through 2039 and building emissions limits and building emissions intensity limits applicable for calendar years 2040 through 2049. Such limits shall be set to achieve an average building emissions intensity for all covered buildings of no more than 0.0014 tCO₂e/sf/yr by 2050.

**Section 28-320.3.4 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.3.5 Building emissions limits on and after calendar year 2050.** No later than January 1, 2023 the commissioner shall establish by rule annual building emissions limits and building emissions intensity limits applicable for calendar years commencing on and after January 1, 2050. Such limits shall achieve an average building emissions intensity for all covered buildings of no more than 0.0014 tCO₂e/sf/yr.

**Section 28-320.3.5 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.3.6 Deductions from reported annual building emissions.** The department may authorize a deduction from the annual building emissions required to be reported by an owner pursuant to section 28-320.3 where the owner demonstrates the purchase of greenhouse gas offsets or renewable energy credits, or the use of clean distributed energy resources, in accordance with this section. For such sections that limit the dates of applicability of such deductions, the department shall promulgate rules to extend such deductions for each future compliance date.

**Section 28-320.3.6 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.6 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.3.6.1 Deductions from reported annual building emissions for renewable energy credits.** A deduction from the reported annual building emissions shall be authorized equal to the number of renewable energy credits purchased by or on behalf of a building owner, provided (i) the renewable energy resource that is the source of the renewable energy credits is considered by the New York independent system operator to be a capacity resource located in, or whose output directly sinks into, the zone J load zone for the reporting calendar year; (ii) the renewable energy credits are solely owned and retired by, or on behalf of, the building owner; (iii) the renewable energy credits are from the same year as the reporting year; and (iv) the building that hosts the system producing the energy does not receive a deduction under section 28-320.3.6.3. Covered buildings claiming deductions for renewable energy credits under this section must provide the department with the geographic location of the renewable energy resource that created the renewable energy credits. The department, in consultation with the mayor's office of long term planning and sustainability, shall promulgate rules to implement this deduction.

**Section 28-320.3.6.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.6.1 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.3.6.2 Deductions from reported annual building emissions for purchased greenhouse gas offsets.** For calendar years 2024 through 2029, a deduction shall be authorized for up to 10 percent of the annual building emissions limit. Such a deduction shall be authorized only where within the reporting calendar year, greenhouse gas offsets equivalent to the size of the deduction as measured in metric tons of carbon dioxide equivalent and generated within the reporting calendar year have been (i) purchased by or on behalf of the owner in accordance with an offset standard referenced by rules of the department, (ii) publicly registered in accordance with such offset standard, and (iii) retired or designated to the department for retirement. Such greenhouse gas offsets must exhibit environmental integrity principles, including additionality, in accordance with rules promulgated by the department in consultation with the office of long term planning and sustainability. For the purposes of this section, additionality means a requirement that an offset project is not already required by local, national or international regulations. Prior to the department promulgation of rules pursuant to this section, the department shall consult the advisory board on environmental justice as established by section 3-1006 of the administrative code.

**Section 28-320.3.6.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.6.2 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.3.6.3 Deductions from reported annual building emissions for clean distributed energy resources.** A deduction from the reported annual building emissions shall be authorized based upon the calculated output of a clean distributed energy resource located at the building subject to the report. The department shall promulgate rules to set forth how such deduction shall be calculated, in accordance with the following:

1. For a clean distributed energy resource that generates electricity, the department shall establish separate calculations for each type of commercially available clean distributed energy resource, which shall not be revised more frequently than once every three years.
2. For a clean distributed energy resource that stores electricity, the deduction shall be based on the size of the resource and its ability to reduce greenhouse gas emissions during designated peak periods.

**Section 28-320.3.6.3 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.6.3 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.3.7 Reports to be filed by owner.** By May 1, 2025, and by May 1 of every year thereafter, the owner of a covered building shall file with the department a report, certified by a registered design professional, prepared in a form and manner and containing such information as specified in rules of the department, that for the previous calendar year such building is either:

1. In compliance with the applicable building emissions limit established pursuant to section 28-320.3; or
2. Not in compliance with such applicable building emissions limit, along with the amount by which such building exceeds such limit.

For a report filed on or after May 1, 2026, where a report required to be submitted by May 1 in the prior year indicated that the covered building was not in compliance with the applicable building emissions limit established pursuant to section 28-320.3 in the calendar year covered by such report, but such building is in compliance for the calendar year covered by the report required to be submitted by May 1 in the current year, such report shall describe the methods used to achieve compliance.

**Section 28-320.3.7 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.7 was amended by: [Local Law 117 of 2020](#). This law has an effective date of November 17, 2020.*

***§28-320.3.7.1 Extension of time to file report.** An owner may apply for an extension of time to file an annual report required by section 28-320.3.7 in accordance with this section and the rules of the department. An extension may be granted where the owner is unable to file the certified report by the scheduled due date despite such owner's good faith efforts, as documented in such application. An extension granted pursuant to this section shall not modify the owner's obligation to comply with the applicable emission limits for such calendar year.

**Section 28-320.3.7.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.3.7.2 Reporting on compliance by the department.** By January 1, 2026, and January 1 of every year thereafter, the office of building energy and emissions performance shall submit to the mayor and speaker of the council a report relating to compliance with this section. Such report shall include, but not be limited to:

1. Beginning with the report due January 1, 2027, the methods used by covered buildings to comply with the building emissions limits established pursuant to section 28-320.3 where such buildings were not in compliance for the report submitted in the previous year, including, as applicable, any retrofitting improvements and purchasing of clean energy, disaggregated by method and by number of buildings; and
2. The total number of buildings in each occupancy group, and the number of buildings in compliance with emissions limits, disaggregated by occupancy group.

**Section 28-320.3.7.2 was added by: [Local Law 117 of 2020](#). This law has an effective date of November 17, 2020.*

***§28-320.3.8 Continuing requirements.** In 2055, the office of building energy and emissions performance shall prepare and submit to the mayor and the speaker of the council recommendations whether to repeal or amend any of the requirements of this article.

**Section 28-320.3.8 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.3.9 Extension for certain income-restricted housing.** This section is applicable to covered buildings:

1. That are owned by a limited-profit housing company organized under article 2 of the private housing finance law, and
2. That contain one or more dwelling units for which occupancy or initial occupancy is restricted based upon the income of the occupant or prospective occupant thereof as a condition of a loan, grant, tax exemption, tax

abatement, or conveyance of property from any state or local governmental agency or instrumentality pursuant to the private housing finance law, the general municipal law, or section 420-c of the real property tax law.

Such covered buildings are exempted from the annual building emissions limits set forth in section 28-320.3.1 and 28-320.3.2 and from any applicable reporting requirements. Commencing January 1, 2035, such covered buildings shall be subject to the annual building emissions limited established pursuant to sections 28-320.3.4 and 28-320.3.5 and any applicable reporting requirements.

**Section 28-320.3.9 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.3.9 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.3.10 Changes in building status.** The department may establish by rule procedures for a building to apply for additional time to comply with the emissions limits when such building converts to a new occupancy group or use with lower emissions limits, or undergoes a change affecting the applicability of this article to such building.

**Section 28-320.3.10 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.3.10.1 Additional time for certain covered buildings.** A covered building where at least one dwelling unit is required by law or by an agreement with a governmental entity to be regulated in accordance with the emergency tenant protection act of 1974, the rent stabilization law of 1969, or the local emergency housing rent control act of 1962, but that is not a rent regulated accommodation pursuant to this article, may delay compliance with annual building emissions limits until January 1, 2026, and submission of the first report required by section 28-320.3.7 until May 1, 2027.

**Section 28-320.3.10.1 was added by: [Local Law 116 of 2020](#). This law has an effective date of November 17, 2020.*

***§28-320.4 Assistance.** The office of building energy and emissions performance shall establish and maintain a program for assisting owners of covered buildings in complying with this article, as well as expand existing programs established to assist owners in making energy efficiency and renewable energy improvements. These programs shall be made available to assist building owners without adequate financial resources or technical expertise.

**Section 28-320.4 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

§28-320.5 Outreach and education. The office of building energy and emissions performance shall establish and engage in outreach and education efforts to inform building owners about building emissions limits, building emissions intensity limits and compliance with this article. The materials developed for such outreach and education shall be made available on the office's website. Such outreach shall include a list of city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which buildings reasonably could be eligible. The office of building energy and emissions performance shall also provide outreach, education, and training opportunities for buildings' maintenance and operations staff.

**Section 28-320.5 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.5.1 Reporting on outreach and education.** By June 1, 2021, and by June 1 in every year thereafter, the office of building energy and emissions performance shall submit a report to the mayor and the speaker of the council, detailing the outreach and education efforts made pursuant to section 28-320.5, including, but not limited to information provided about incentive programs and other sources of funding. Such report shall also include the number of staff members working at the office of building energy and emissions performance.

**Section 28-320.5.1 was added by: [Local Law 117 of 2020](#). This law has an effective date of November 17, 2020.*

***§28-320.6 Penalties.** An owner of a covered building who has submitted a report pursuant to section 28-320.3.7 which indicates that such building has exceeded its annual building emissions limit shall be liable for a civil penalty of not more than an amount equal to the difference between the building emissions limit for such year and the reported building emissions for such year, multiplied by \$268.

**Section 28-320.6 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.6.1 Determination of penalty.** In considering the amount of the civil penalty to be imposed pursuant to this article, a court or administrative tribunal shall give due regard to aggravating or mitigating factors including:

1. The respondent's good faith efforts to comply with the requirements of this article, including investments in energy efficiency and greenhouse gas emissions reductions before the effective date of this article;
2. The respondent's history of compliance with this article;

3. The respondent's compliance with the conditions of any adjustment to the applicable building emissions limit, issued by the department pursuant to section 28-320.7;
4. Whether the non-compliance was directly related to unexpected and unforeseeable events or conditions during the calendar year outside the control of the respondent;
5. The respondent's access to financial resources, where the court or administrative tribunal may consider the financial hardship of a building owned by such respondent as evidence of such respondent's access to such financial resources; and
6. Whether payment of such penalty would impact the operations of facilities critical to human life or safety.

**Section 28-320.6.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.6.1 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.6.2 Civil penalty for failure to file report.** It shall be unlawful for the owner of a covered building to fail to submit an annual report as required by section 28-320.3.7 on or before the applicable due date. An owner of a covered building subject to a violation for failure to file a report shall be liable for a penalty of not more than an amount equal to the gross floor area of such covered building, multiplied by \$0.50, for each month that the violation is not corrected within the 12 months following the reporting deadline; provided, however, that an owner shall not be liable for a penalty for a report demonstrating compliance with the requirements of this article if such report is filed within 60 days of the date such report is due.

**Section 28-320.6.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.6.3 False statement.** It shall be unlawful to knowingly make a material false statement in a report or other submission filed with the department, pursuant to this article. A violation of this section shall be a misdemeanor and subject to a fine of not more than \$500,000 or imprisonment of not more than 30 days or both such fine and imprisonment. A person who violates this section shall also be liable for a civil penalty of not more than \$500,000.

**Section 28-320.6.3 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.6.4 Penalty recovery.** Civil penalties provided for by this article may be recovered in a proceeding before an administrative tribunal within the jurisdiction of the office of administrative trials and hearings. Administrative summonses returnable to such tribunal for violations of this article may be issued by the department or by an agency designated by the department. Civil penalties provided for by this article may also be recovered in an action by the corporation counsel in any court of competent jurisdiction.

**Section 28-320.6.4 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.7. Adjustment to applicable annual building emissions limit.** The department, in consultation with the mayor's office of long term planning and sustainability or any other agency designated by the mayor, may grant an adjustment of the annual building emissions limit applicable to a covered building in existence on the effective date of this article or for which a permit for the construction of such building was issued prior to such effective date, provided that the owner is complying with the requirements of this article to the maximum extent practicable.

1. Such an adjustment may be granted upon a specific determination that all of the following conditions in items 1.1 through 1.3 are met:
 - 1.1. Capital improvements are necessary for strict compliance with the limit set forth in section 28-320.3 and it is not reasonably possible to make such improvements due to (i) a constraint imposed by another provision of law, including but not limited to designation as a landmark, landmark site, interior landmark, or within a historic district pursuant to chapter 3 of title 25 of the administrative code, or (ii) a physical condition of the building or building site, including but not limited to lack of access to energy infrastructure, space constraints, or lack of access to a space within a building covered by a lease in existence on the effective date of this section;
 - 1.2. The owner has made a good faith effort to purchase greenhouse gas offsets to comply with section 28-320.3 but a sufficient quantity is not available at a reasonable cost; and
 - 1.3. The owner has availed itself of all available city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which it reasonably could participate.
2. Such an adjustment may be granted upon a specific determination that all of the following conditions in items 2.1 through 2.4 are met:

- 2.1. The cost of financing capital improvements necessary for strict compliance with the limit set forth in section 28-320.3 would prevent the owner of a building from earning a reasonable financial return on the use of such building or the building is subject to financial hardship as defined in this article. In evaluating the ability of an owner to earn a reasonable financial return, the department may consider future savings expected from such capital improvements;
- 2.2. The owner is not eligible for any program funded by the city or enabled by a local law that provides financing for the purpose of energy reduction or sustainability measures. Proof of ineligibility for financing must be demonstrated by rejection from any such program funded by the city or enabled by a local law or an affidavit explanation why such owner could not reasonably participate in such programs;
- 2.3. The owner has made a good faith effort to purchase greenhouse gas offsets or renewable energy credits to comply with section 28-320.3 but a sufficient quantity is not available at a reasonable cost; and
- 2.4. The owner has availed itself of all available city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which it reasonably could participate.

**Section 28-320.7 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.7 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.7.1 Effective period.** An adjustment granted pursuant to item 1 of section 28-320.7 may be effective for a period of not more than three calendar years. An adjustment granted pursuant to item 2 of such section may be effective for a period of not more than one calendar year.

**Section 28-320.7.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.7.2 Application.** An application for such an adjustment shall be made in the form and manner determined by the department and certified by a registered design professional.

**Section 28-320.7.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.8 Adjustment to applicable annual building emissions limit for calendar years 2024-2029.** The department may grant an adjustment of the annual building emissions limit for calendar years 2024 through 2029 applicable to a covered building in existence on the effective date of this article where such covered building emissions in calendar year 2018 exceeds the building emissions limit as prescribed by section 28-320.3.1 by more than 40 percent, as reported to the department by a registered design professional. The adjustment shall result in a required building emissions limit that is 70 percent of the calendar year 2018 building emissions for the covered building. Such adjustment may be granted where all of the following conditions in items 1 through 3 are met:

1. The owner of the covered building demonstrates that the building emissions in excess of the building emissions limit is attributable to special circumstances related to the use of the building, including but not limited to 24 hour operations, operations critical to human health and safety, high density occupancy, energy intensive communications technologies or operations, and energy-intensive industrial processes;
2. The owner of the covered building demonstrates that the energy performance of the covered building is equivalent to a building in compliance with the New York city energy conservation code in effect on January 1, 2015; and
3. The owner of the covered building has submitted a plan to the department setting forth a schedule of alterations to the covered building or changes to the operations and management of the covered building sufficient to ensure that the covered building will be in compliance with the annual building emissions limits for calendar years 2030 through 2034, as required by section 28-320.3.2.

**Section 28-320.8 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.8 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.8.1 Effective period.** An adjustment granted pursuant to section 28-320.8 may be effective for the reporting years 2025 through 2030, as prescribed by section 28-320.3.7, provided that the certificate of occupancy has not been amended after December 31, 2018.

**Section 28-320.8.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.8.1.1 Extension of effective period.** The commissioner may also grant an extension of the effective period of the adjustment to applicable annual building emissions limit for calendar years 2030-2035, as prescribed by section 28-320.3.8. Such extension may be granted upon submission of a schedule of alterations to the covered building or changes to the operations and management of the covered building in accordance with section 28-320.8

sufficient to ensure that by 2035 the covered building will comply with a required building emissions limit that is 50 percent of the reported 2018 building emissions for the covered building.

**Section 28-320.8.1.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.8.2 Application.** An application for an adjustment shall be submitted to the department before July 1, 2021 in the form and manner determined by the department and certified by a registered design professional.

**Section 28-320.8.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-320.9 Adjustment to applicable annual building emissions limit for not-for-profit hospitals and healthcare facilities.** The department shall grant an adjustment of the annual building emissions limits for calendar years 2024-2029 and 2030-34 where all of the following conditions in items 1 and 2 are met:

1. The building is classified as a not-for-profit hospital, not-for-profit health center, or not-for-profit HIP center, in existence on the effective date of this article; and
2. By no later than July 21, 2021, the owner of the covered building submits an application to the department for such adjustment in a form and manner prescribed by the department. For calendar years 2024 through 2029, the adjustment shall result in the covered building being subject to an emissions limit that is 85 percent of the calendar 2018 building emissions for such covered building. For calendar years 2030 through 2034, the adjustment shall result in the covered building being subject to an emissions limit that is 70 percent of the calendar 2018 building emissions for such covered building.

**Section 28-320.9 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-320.9 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.10 Fee schedule.** The department may establish by rule a schedule of fees that shall be paid upon the filing of a report or an application for an adjustment to the applicable building emissions limit pursuant to this article. Such schedule may include a fee for the late filing of a report.

**Section 28-320.10 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-320.11 Carbon trading study.** The office of long term planning and sustainability shall conduct a study on the feasibility of a citywide trading scheme for greenhouse gas emissions from buildings and submit a report and implementation plan with the findings of such study to the mayor and the speaker of the council no later than January 1, 2021. Such study shall include methods to ensure equitable investment in environmental justice communities that preserve a minimum level of benefits for all covered buildings and do not result in any localized increases in pollution. Such study shall also include an approach to a marketplace for credit trading, pricing mechanisms, credit verification, and mechanisms for regular improvement of the scheme. Such study should also consider the reports and recommendations of the advisory board.

**Section 28-320.11 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***ARTICLE 321**

ENERGY CONSERVATION MEASURE REQUIREMENTS FOR CERTAIN BUILDINGS

**Article 321 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-321.1 Definitions.** As used in this article, the following terms shall have the following meanings:

****COVERED BUILDING.** The term “covered building” means a building that is (i) a rent regulated accommodation, (ii) a building whose main use or dominant occupancy is classified as occupancy group A-3 religious house of worship, (iii) owned by a housing development fund company organized pursuant to the business corporation law and article 11 of the private housing finance law, or (iv) a building that participates in a project-based federal housing program and, as it appears in the records of the department of finance, such building (i) exceeds 25,000 (2322.5 m²) gross square feet, or (ii) is one of two or more buildings on the same tax lot that together exceed 50,000 gross square feet (4645 m²), or (iii) is one of two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet (4645 m²).

Exceptions:

1. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than 25,000 gross square feet (2322.5 m²), as certified by a registered design professional to the department.

2. An industrial facility primarily used for the generation of electric power or steam.

*****RENT REGULATED ACCOMODATION.** The term “rent regulated accommodation” means a building in which more than 35% of dwelling units are required by law or by an agreement with a governmental entity to be regulated in accordance with the emergency tenant protection act of 1974, the rent stabilization law of 1969, or the local emergency housing rent control act of 1962.

*Section 28-321.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.

**Section 28-321.1 was amended by: [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.

***Section 28-321.1 was amended by: [Local Law 116 of 2020](#). This law has an effective date of November 17, 2020.

*§28-321.2 **Required energy conservation measures for certain buildings.** A covered building must comply with either section 28-321.2.1 or section 28-321.2.2.

*Section 28-321.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.

*§28-321.2.1 **Energy compliant buildings.** The owner of a covered building shall demonstrate that, for calendar year 2024, the annual building emissions of such covered building did not exceed what the applicable annual building emissions limit would be pursuant to section 28-320.3.2 if such building were a covered building as defined in article 320 of this chapter.

*Section 28-321.2.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.

*§28-321.2.2 **Prescriptive energy conservation measures.** By December 31, 2024, the owner of a covered building shall ensure that the following energy conservation measures have been implemented where applicable:

1. Adjusting temperature set points for heat and hot water to reflect appropriate space occupancy and facility requirements;
2. Repairing all heating system leaks;
3. Maintaining the heating system, including but not limited to ensuring that system component parts are clean and in good operating condition;
4. Installing individual temperature controls or insulated radiator enclosures with temperature controls on all radiators;
5. Insulating all pipes for heating and/or hot water;
6. Insulating the steam system condensate tank or water tank;
7. Installing indoor and outdoor heating system sensors and boiler controls to allow for proper set-points;
8. Replacing or repairing all steam traps such that all are in working order;
9. Installing or upgrading steam system master venting at the ends of mains, large horizontal pipes, and tops of risers, vertical pipes branching off a main;
10. Upgrading lighting to comply with the standards for new systems set forth in section 805 of the New York city energy conservation code and/or applicable standards referenced in such energy code on or prior to December 31, 2024. This provision is subject to exception 1 in section 28-310.3, provided that July 1, 2010 is replaced by January 1, 2020 for the purposes of this section;
11. Weatherizing and air sealing where appropriate, including windows and ductwork, with focus on whole-building insulation;
12. Installing timers on exhaust fans; and
13. Installing radiant barriers behind all radiators.

*Section 28-321.2.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.

*§28-321.3 **Reports.** By May 1, 2025, an owner of a covered building shall submit a report to the department to demonstrate compliance with this section in accordance with section 28-321.3.1 or section 28-321.3.2.

*Section 28-321.3 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.

*§28-321.3.1 **Energy compliant buildings reports.** The owner of a covered building shall file with the department a report, certified by a registered design professional, prepared in a form and manner and containing such information as

specified in rules of the department, that for calendar year 2024 such building was in compliance with the applicable building emissions limit established pursuant to section 28-320.3.2.

**Section 28-321.3.1 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***§28-321.3.2 Prescriptive energy conservation measures reports.** A retro-commissioning agent, as defined in article 308, shall prepare and certify a report in a form and manner determined by the department. The report shall include such information relating to the completion of the prescriptive energy conservation measures as shall be set forth in the rules of the department including, at a minimum:

1. Project and team information:
 - 1.1. Building address.
 - 1.2. Experience and certification of persons performing the prescriptive energy conservation measures and any staff involved in the project.
 - 1.3. Name, affiliation, and contact information for persons performing the prescriptive energy conservation measures, owner of building, and facility manager of building.
2. Building information:
 - 2.1. List of all HVAC, domestic hot water, electrical equipment, lighting, and conveyance equipment types serving the covered building.

**Section 28-321.3.2 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019.*

***Section 28-321.4 was added by: [Local Law 97 of 2019](#). This law has an effective date of November 15, 2019 and repealed by [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****ARTICLE 322 MAINTENANCE AND REMOVAL OF LARGE WIND TURBINES**

***Article 322 was added by: [Local Law 98 of 2019](#). This law has an effective date of November 15, 2019. This Article was renumbered by [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

§28-322.1 Maintenance. The owner of a large wind turbine or large wind turbine tower, as such terms are defined in section 3114.2 of the New York city building code, shall maintain such turbine and tower in accordance with department rules.

***Section 28-322.1 was added by: [Local Law 98 of 2019](#). This law has an effective date of November 15, 2019. This section was renumbered by [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-322.2 Removal.** The owner of a large wind turbine, as such term is defined in section 3114.2 of the New York city building code, shall remove such turbine when (i) the time elapsed since the installation of such turbine exceeds the manufacturer's suggested useful life of such turbine or (ii) such turbine has been continuously inoperable for 12 months or more, whichever occurs sooner, provided that the commissioner shall by rule establish a timeframe for removing large wind turbines that do not have manufacturer's suggested useful lives.

***Section 28-322.2 was added by: [Local Law 98 of 2019](#). This law has an effective date of November 15, 2019. This section was renumbered by [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-322.3 Locking before hurricane or strong wind conditions.** If a hurricane or strong wind conditions are expected, the commissioner may order that large turbines equipped with passive locks be stopped and locked.

***Section 28-322.3 was added by: [Local Law 98 of 2019](#). This law has an effective date of November 15, 2019. This section was renumbered by [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

****§28-322.4 Lighting.** A large wind turbine shall not be artificially lighted.

Exception: Lighting that is required by this code or other applicable laws or rules, provided that such lighting is shielded in accordance with rules promulgated by the commissioner.

***Section 28-322.4 was added by: [Local Law 98 of 2019](#). This law has an effective date of November 15, 2019. This section was renumbered by [Local Law 147 of 2019](#). This law has an effective date of November 15, 2019.*

***ARTICLE 323 PERIODIC INSPECTION OF PARKING STRUCTURES**

**Article 323 was added by [Local Law 126 of 2021](#). This article has an effective date of January 1, 2022.*

***§28-323.1 General.** Parking structures shall be maintained in a safe condition. The owner shall be responsible for the proper inspection, repair, and maintenance of the parking structure in accordance with the requirements set forth in this article.

Exceptions: The requirements imposed by this article shall not apply to:

1. Unenclosed, unattached outdoor parking lots.
2. Private garages serving one- and two-family homes as defined in chapter 2 of the New York city building code.

***§28-323.2 Definitions.** As used in this article, the following terms shall have the following meanings:

ANNUAL OBSERVATION CHECKLIST. A document developed by the approved agency during initial condition assessment containing baseline items to be inspected between condition assessments, annually or at more frequent intervals as prescribed by the approved agency, by or on behalf of the parking structure owner.

CONDITION ASSESSMENT. An on-site inspection and evaluation of a parking structure by an approved agency for evidence of deterioration of any structural element or building component of such parking structure, evidence of the existence of any unsafe structural condition in such parking structure, or evidence indicating that such parking structure is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

INITIAL CONDITION ASSESSMENT. The first condition assessment conducted by an approved agency of a parking structure as outlined in the rules of the department.

PARKING STRUCTURE. A building or space used for the parking or storage of motor vehicles, other than an automotive service station, automotive repair shop, or private garage as defined in chapter 2 of the New York city building code.

***§28-323.3 Condition assessment.** A condition assessment of a parking structure shall be conducted at periodic intervals as set forth by rule of the commissioner, provided that such condition assessment shall be conducted at least once every six years and after each notification of an unsafe condition. All condition assessments shall be conducted on behalf of the building owner by an approved agency.

***§28-323.3.1 Initial condition assessment.** The initial condition assessment for a new parking structure shall be conducted in the second year following the completion of a parking structure or as otherwise prescribed by rule as evidenced by the issuance date of a temporary or final certificate of occupancy. Existing parking structures shall have an initial condition assessment performed by an approved agency as required herein and by rule. During the initial condition assessment, the approved agency shall develop and provide to the parking structure owner or owner's authorized agent an annual observation checklist containing minimum requirements and elements to be inspected as part of the required annual observation.

***§28-323.3.2 Subsequent condition assessments.** Condition assessments shall be conducted at intervals specified in the rules of the department. Condition assessments shall include a complete review of the most recently prepared condition assessment report, owner's annual inspection checklists since the last condition assessment, inspection of structural elements, and a structural assessment conducted in accordance with rules promulgated by the commissioner.

***§28-323.4 Annual parking structure observation.** An annual observation shall be performed by the parking structure owner or owner's authorized agent at intervals specified in the annual observation checklist, but not less than once a year after the owner receives the most recent condition assessment report. The observation shall include, at a minimum, observation of the items included on the annual observation checklist provided or verified by the approved agency during the most recent condition assessment. Copies of all annual observation checklists completed since the last condition assessment shall be maintained at the parking structure.

***§28-323.5 Report of condition assessment.** A report shall be issued by the approved agency following each condition assessment in accordance with sections 28-323.5.1 and 28-323.5.2.

***§28-323.5.1 Contents.** The report shall indicate the results of the condition assessment as safe, safe with repair and/or engineering monitoring, or unsafe, as prescribed by the rules of the department. It shall include a record of all potentially unsafe conditions of the structure and the condition of structural framing members, any visible reinforcement, connections, and conditions of slabs and slab joints. The report must also contain the annual observation checklist to be used for subsequent annual parking structure observations. Such report must be signed and sealed by a professional engineer, who must file the report.

***§28-323.5.2 Submission deadlines.** Except as otherwise provided in section 28-323.7, the approved agency shall submit a written report to the commissioner within 60 days of completing the condition assessment, but not more than

six years from the submission of the preceding report of condition assessment, certifying the results of the assessment as described in section 28-323.5.1.

***§28-323.6 Fees.** Every owner of a parking structure subject to condition assessments shall pay to the department a report filing fee for each report of condition assessment in the amount set forth in the rules of the department.

***§28-323.7 Immediate notice of unsafe condition.** The department must be notified of an unsafe condition immediately. A compliance report shall be filed after each unsafe notification.

1. Whenever a representative of an approved agency learns of an unsafe condition through a condition assessment of a parking structure, such representative shall notify the owner and the department immediately.
2. Whenever an owner or an owner's authorized agent observes an unsafe condition during annual observations, or at any other time in between assessments, the owner shall notify the department immediately and undertake repairs in accordance with section 28-323.8.

***§28-323.8 Repair of parking structure, unsafe condition.** Upon the notification to the department of an unsafe condition, the owner or the owner's authorized agent shall immediately secure public safety by removing the unsafe condition or safeguarding the area. The owner shall then engage an approved agency to conduct a condition assessment and file a compliance report.

1. The owner shall commence repairs, reinforcements or other measures to make the structural elements of the parking structure conform to the provisions of this code.
2. All unsafe conditions shall be corrected within 90 days of filing of the condition assessment report.
3. The approved agency shall reinspect the premises and file an amended report within two weeks after the repairs have been completed certifying that the unsafe conditions of the building have been corrected.
4. The commissioner may grant an extension of time of up to 90 days to complete the repairs required to correct an unsafe condition upon receipt and review of an initial extension application submitted by the approved agency together with such additional documentation as may be prescribed by rule.
5. The commissioner may grant further extensions of time to complete the repairs required to remove an unsafe condition upon receipt and review of an application for a further extension submitted by the approved agency together with such further documentation as may be prescribed by rule.

***§28-323.9 Safe with repair and/or engineering monitoring.** A parking structure or any part thereof that may pose a potential danger to persons or property, but does not require immediate action shall be rated safe with repair and/or engineering monitoring. This condition requires further investigation and timely remedial action to prevent its deterioration into an unsafe condition. A registered design professional shall be responsible for appropriately monitoring the structure until the repair is completed.

***§28-323.9.1 Safe with repair and/or engineering monitoring assessment requirements.** When the results of an initial assessment indicate a parking structure is safe with repair and/or engineering monitoring, the parking structure shall be subsequently assessed no more than three years from the date of the initial assessment and an amended report filed with the department.

***§28-323.9.2 Safe with repair and/or engineering monitoring for two cycles.** The approved agency shall not file a report of a safe condition with repair and/or engineering monitoring program for the same parking structure for two consecutive filing periods unless the second such report is accompanied by his or her professional certification attesting to the correction of all conditions identified in the prior report as requiring repair.

**Article 323 was added by [Local Law 126 of 2021](#). This article has an effective date of January 1, 2022.*