

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

§28-303.1 General. Periodic boiler inspections shall be performed in accordance with this article.

§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.

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

§28-303.3.1 High-pressure boilers. Inspections required by section 28-303.2 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 agency performing the inspection and the building owner 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 45 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. The owner must file an affirmation that all defects identified in the annual boiler inspection report have been corrected. Such affirmation must be filed with the department within 120 days after the date of filing of the report.

§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

§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 the schedule set forth in Table N1 of ASME 17.1 as referenced in chapter 35 and as may be modified in chapter 30 and appendix K of the New York city building code ("Table N1").

Exception: Elevators located in one-family, two-family or multiple-family dwellings that service only a single owner-occupied dwelling unit which is not occupied by boarders, roomers or lodgers, and elevators located within convents and rectories that are not open to non-occupants on a regular basis are not subject to periodic inspection requirement of such reference standard. Inspections and tests shall be performed in accordance with Table N1.

§28-304.3 Chair lifts, stairway chair lifts and vertical reciprocating conveyors (VRCs). Chair 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 and, where applicable, department rules and with sections 28-304.6.1 through 28-304.6.6.

§28-304.6.1 Inspection and testing entities. The required periodic inspections in Table N1 shall be made by the department. The other tests and inspections in Table N1 shall be performed on behalf of the owner by an approved agency in accordance with this code and department rules. Where indicated in Table N1, tests and inspections shall be witnessed by an approved agency not affiliated with the agency performing the test. Not affiliated, as used in this section, shall mean the approved agency owners, directors and inspectors shall be independent of all relative approved 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 inspections and 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 inspections and 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 inspections and 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.

§28-304.6.1.1 Department notification. The department shall be notified by the performing agency at least seven 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 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 an inspection or 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 Field inspection report and notation on the inspection certificate. Field inspection reports and notifications 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 When no witnessing agency is required. When no witnessing agency is required to witness inspections and tests under Table N1, the performing inspector shall, on the day of each inspection and test: (i) complete the field inspection and 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 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 attesting to completion of items (i) and (ii).

§28-304.6.4.2 When a witnessing agency is required. When a witnessing agency is required to witness inspections and tests under Table N1, the performing inspector shall, on the day of each inspection and test complete the field inspection and test report, documenting all violating conditions, if any, and affix his or her signature. The witnessing agency inspector shall, on the day of each inspection and test: (i) review and confirm the field inspection report and also affix his or her signature to it; (ii) provide a copy of such report to the owner or owner's representative; and (iii) 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 attesting to the completion of items (i) and (ii).

§28-304.6.5 Inspection and test reports submission. Inspection and 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:

1. The inspection and test reports shall contain signatures of (i) the performing agency inspector and director, (ii) the witnessing agency inspector and director, and (iii) the building owner.
2. The completed inspection and test reports, with all applicable signatures, shall be delivered to the owner by the approved performing and/or witnessing agency within 30 days of the test listing all violating conditions for each device tested, and filed with the department within 60 days after the date of the test by the owner or its authorized designee.

Exception: Inspection and test 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.

§28-304.6.6 Repair. All defects as found in such inspection and test reports shall be corrected within 120 days after the date of inspection and test, except all hazardous conditions shall be corrected immediately. An affirmation of correction shall be filed within 60 days of the date of correction.

§28-304.7 Required contract. The owner of all new and existing passenger elevators and escalators shall have a contract with an approved 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 an inspection fee and a report filing fee for each elevator or device in the amount prescribed by this code.

§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 27-37 1 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:

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.

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.

Exception: 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.

§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 NYSERDA 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 NYSERDA 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

§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 or part 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 not owned by the city in which the city is a tenant and for which the city does not pay all the energy bills;
2. Any building owned by the city that participates in the tenant interim lease apartment purchase program; or
3. Any building owned by the city that (i) is 50,000 gross square feet (4645 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 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:

1. Any building that is a city building.
2. Any building that is owned by the city.
3. Real property classified as class one pursuant to subdivision one of section one thousand eight hundred two of the real property tax law.

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.

§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. The owner of a covered building shall annually benchmark such covered building no later than May 1, 2011, and no later than every May first 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.

§28-309.4.1 Obligation to request and to report information. Where a unit or other space in a covered building, other than a dwelling unit, is occupied by a tenant and such unit or space is separately metered by a utility company, the owner of such building shall request from such tenant information relating to such tenant's separately metered energy use for the previous calendar year and such tenant shall report such information to such owner.

§28-309.4.1.1 Owner solicitation of tenant information. Such owner shall request information relating to such tenant's separately metered energy use for the previous calendar year no earlier than January first and no later than January thirty-first of any year in which the owner is required to benchmark such building. The office of long-term planning and sustainability may require that such owner provide such tenant with a form designated by the office of long-term planning and sustainability to report such information.

§28-309.4.1.2 Tenant reporting of information. Such tenant shall report information relating to such tenant's separately metered energy use for the previous calendar year no later than February fifteenth of any year in which the owner is required to benchmark such building. Such information shall be reported in a form and manner determined by the office of long-term planning and sustainability.

§28-309.4.1.3 Provision of information prior to vacating a unit or other space. Where such owner receives notice that such tenant intends to vacate such unit or other space before reporting information in accordance with sections 28-309.4.1 and 28-309.4.1.2, such owner shall request information relating to such tenant's energy use for any period of occupancy relevant to such owner's obligation to benchmark. Any such tenant shall report such information to the owner of such building prior to vacating such unit or other space or, if such information is not available prior to vacating such unit or other space, as soon as practicable thereafter, regardless of whether such owner has requested information pursuant to this section. Such information shall be reported in a form and manner determined by the office of long-term planning and sustainability.

§28-309.4.1.4 Continuing obligation to benchmark. The failure of any or all tenants to report the information required by sections 28-309.4.1, 28-309.4.1.2, and 28-309.4.1.3 to the owner shall not relieve such owner of the obligation to benchmark pursuant to this article, provided that such owner shall not be required to benchmark such information not reported by a tenant unless otherwise available to such owner.

§28-309.4.2 Preservation of documents, inspection, and audit. Owners of covered buildings 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 tenants. Such 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.

§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.

§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. Where information is uploaded directly to the benchmarking tool by a utility company or other authorized source, owners and tenants shall not be obligated to request and report such information pursuant to section 28-309.4.1.

§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, 2011, and no later than every September first thereafter for city buildings, no later than September 1, 2012, and no later than every September first thereafter for covered buildings whose primary use is not residential, as determined by the department of finance, and no later than September 1, 2013, and no later than every September first thereafter for covered buildings whose primary use is residential, as determined by the department of finance. Such information shall include, but need not be limited to: (i) the energy utilization index, (ii) the water use per gross square foot, (iii) where available, a rating 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 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.

§28-309.9 Report. No later than December 31 of 2011, 2012 and 2013, respectively, 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.

§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.

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 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.

UPGRADE. The installation or modification of the lighting system of a covered building to comply with the standards required for new systems, including all of the following elements: lighting controls (interior lighting controls, light reduction controls and automatic lighting shutoff), tandem wiring, exit signs, interior lighting power requirements and exterior lighting.

§28-310.3 Upgrade of lighting systems of covered buildings required. The lighting systems of covered buildings shall be upgraded to comply with the standards for new systems set forth in section eight hundred five of the New York city energy conservation code and/or applicable standards referenced in such energy code on or prior to January 1, 2025. 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, on or prior to such date, 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. No upgrade is required for (i) 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, or (ii) 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. No upgrade is required for the lighting system within dwelling units classified in occupancy group R-2 or R-3 or spaces serving such dwelling units, including but not limited to, hallways, laundry rooms, or boiler rooms.
3. No upgrade is required for the lighting system within a space classified in occupancy group A-3 that is within a house of worship.

**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 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.

COVERED TENANT SPACE. (i) A tenant space larger than 10,000 gross square feet (929 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 10,000 gross square feet (929 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.

§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 prior to 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 10,000 gross square feet (929 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.

§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 with the department on or prior to January 1, 2025 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.

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.

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.

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.

§28-315.3 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. The upgrade of the lighting systems of certain buildings in accordance with article 310 of this chapter shall be completed and a report of such upgrade filed with the department by January 1, 2025.

§28-315.3.2 Electrical sub-meters. The installation of electrical sub-meters in tenant spaces in certain buildings in accordance with article 311 of this chapter shall be completed and a report of such installation filed with the department by January 1, 2025.

§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.

§28-315.7 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.

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 a certification each year 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 as otherwise specified 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.*

***§28-317.6 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.*