

February 8, 2022  
Public Hearing #1

**WHEREAS**, a review of the Islip Town Code has been conducted by the Division of Fire Prevention and the Office of the Town Attorney; and

**WHEREAS**, on the basis of said review, certain modifications are deemed appropriate in order to clarify, modernize, and streamline portions of the Code that are either ambiguous, lacking clarity, or are insufficient in addressing current trends; and

**WHEREAS**, the Town Board wishes to amend Local Law No. 8-2013 Chapter 19 of the Islip Town Code entitled "Fire Prevention" as it relates to operation and structural maintenance of parking garages within the Town of Islip;

**WHEREAS**, the Chief Fire Marshall has recommended that these modifications to Chapter 19 to ensure the health, safety and welfare of residents within the Town of Islip;

**WHEREAS**, the Town Clerk has placed a Public Notice in the newspaper circulated locally which indicates the nature of the proposed Code changes; and

**WHEREAS**, on February 8, 2022, a public hearing was held;

**NOW, THEREFORE**, on motion of Councilperson James P. O'Connor, seconded by Councilperson John C. Cochrane, Jr, be it

**RESOLVED**, that the Town Board hereby adopts Local Law No. 1 of 2022 amending Local Law No. 8-2013 Chapter 19 of the Islip Town Code entitled "Fire Prevention", as follows:

**SEE ATTACHED**

Additions are indicated by UNDERLINING

Deletions are indicated by ~~STRIKEOUTS~~

Upon a vote being taken the result was: 5-0

## **Article XXXI. Parking Garages.**

### **§ 19-179. Scope.**

This article shall apply to, and provide regulations and standards regarding the operation and the required structural condition assessment of parking garages as defined in section 19-180.

### **§ 19-180. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

#### **CONDITION ASSESSMENT**

An on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure.

#### **DETERIORATION**

The weakening, disintegration, corrosion, rust or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component.

#### **PARKING GARAGE**

Any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicle, excluding:

(a) buildings in which the only level used for parking or storage of motor vehicles is on grade;

(b) an attached or accessory structure providing parking exclusively for a detached one or Two-family dwelling; and

(c) a townhouse unit with attached parking exclusively for such unit.

#### **PROFESSIONAL ENGINEER**

An individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations.

## **RESPONSIBLE PROFESSIONAL ENGINEER**

The professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report.

## **UNSAFE CONDITION**

Includes the conditions identified as "unsafe" in section 304.1.1, section 305.1.1, and section 306.1.1 of the 2020 edition of the New York State Property Maintenance Code (or publication currently incorporated by reference in 19 NYCRR Part 1226).

## **UNSAFE STRUCTURE**

A structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

### **§ 19-181. Condition Assessments - General Requirements.**

The owner or operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in § 19-182, periodic condition assessments as described in § 19-183, and such additional condition assessments as may be required as described in § 19-184. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Chief Fire Marshal, in accordance with the requirements of § 19-1 5. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

### **§ 19-182. Initial Condition Assessment.**

Each parking garage shall undergo an initial condition assessment as follows:

- A. New parking garages shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
- B. Existing parking garages shall undergo an initial condition assessment as follows:
  1. If originally constructed prior to the effective date of this Article, then prior to June 1, 2022.

### **§ 19-183. Periodic Condition Assessments.**

Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.

### **§ 19-184. Additional Condition Assessments.**

- A. If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under § 19-183, the Chief Fire Marshal shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
  
- B. If the authority having jurisdiction becomes aware of any new or increased deterioration which, in the judgment of the authority having jurisdiction, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under § 19-183, the Chief Fire Marshal shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the authority having jurisdiction to be appropriate.

### **§ 19-185. Condition assessment Reports**

The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Chief Fire Marshal within thirty (30) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- A. an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
  
- B. an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

- C. an evaluation and description of the unsafe conditions;
- D. an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
- E. an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
- F. an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
- G. the responsible professional engineer's recommendation regarding preventative maintenance;
- H. except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
- I. the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

**§ 19-186. Review of Condition Assessment Reports**

- A. The Chief Fire Marshal shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Chief Fire Marshal shall, by Order to Remedy or such other means of enforcement as the Chief Fire Marshal may deem appropriate, require the owner or operator of the parking garage to repair or

otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to § 19-185.

- B. The Chief Fire Marshal shall forward all condition assessment reports and other pertinent information that may indicate an unsafe building or structure to the Commissioner of Planning and Development.
- C. The Commissioner of Public Safety Enforcement or the Commissioner's designee shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from an Unsafe Structure. In particular, but not by way of limitation, the Commissioner of Public Safety Enforcement or designee shall, by Order of Remedy or such other means of enforcement, require the owner or operator of the parking garage to limit or prohibit occupancy of an unsafe parking garage.
- D. All repairs and remedies shall comply with the applicable provisions of the Uniform Code and the Code of the Town of Islip.
- E. This section shall not limit or impair the right of the Chief Fire Marshal to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.
- F. This section shall not limit or impair the right of the Commissioner of Planning and Development or their designee to take any other enforcement action or actions related to an Unsafe Structure as regulated under the provisions of the code of the Town of Islip.

#### **§ 19-187. Retention of Condition Assessment Reports**

The Division of Fire Prevention shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Division of Fire Prevention with a written statement attesting to the fact that he or she has been so engaged, the Division of Fire Prevention shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Division of Fire Prevention shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

**§ 19-188. Conflicts with Other Obligations**

A. This section shall not limit or impair the right or the obligation of the Division of Fire Prevention:

- (1) to perform such construction inspections as are required by this Chapter;
- (2) to perform such periodic fire safety and property maintenance inspections as are required by this Chapter; and
- (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Chief Fire Marshal by means of its own inspections or observations, by means of a complaint or by any other means other than a condition assessment or a report of a condition assessment.

**§ 19-189. Operating Permit Required**

A. An operating permit shall be obtained from the Chief Fire Marshal for the operation of a Parking Garage., as defined in this section. The Chief Fire Marshal may promulgate reasonable rules and regulations for the granting of permits, including but not limited to requiring:

- (1) A completed Permit application;
- (2) the submittal of plans and/or specifications for such structure;
- (3) initial condition assessments;
- (4) periodic condition assessments; and
- (5) the installation and/or testing records for fire protection equipment or systems in use of said structure.

B. Upon receipt of such application, the Chief Fire Marshal shall cause the Parking Garage to be inspected for compliance with the Uniform Fire Prevention and Building Code of New York State.

- C. No permit for a Parking Garage shall be granted if, in the opinion of the Chief Fire Marshal, such structure is not in compliance with the Uniform Fire Prevention and Building Code.
- D. An operating permit for an area of Parking Garage shall be effective for a period not to exceed three (3) years. An application for renewal must be made prior to the expiration of the current permit.
- E. An operating permit for a Parking Garage may be suspended or revoked if, in the opinion of the Chief Fire Marshal, there is a violation of the Uniform Fire Prevention Code of New York State resulting in immediate danger to the life or health of occupants thereof.
- F. Fees for an operating permit for Parking Garages or for renewal of such permit shall be established by the Chief Fire Marshal, according to § 19-11 of this Chapter.