

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2008**

No. 37

Introduced by Council Members Jackson, Comrie, Gentile, James, Koppell, Nelson, Palma, Seabrook, Stewart, Weprin, Gerson, Dickens, White Jr., Lappin, Como, Garodnick, Liu and Sears (in conjunction with the Mayor)(Passed Under Mayor's Message of Necessity).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the inspection, maintenance and repair of retaining walls.

Be it enacted by the Council as follows:

Section 1. Table 28-112.7.2 of section 28-112.7.2 of the administrative code of the city of New York, as amended by a local law amending the administrative code of the city of New York in relation to requiring certain buildings or structures to undergo a structural inspection as set forth in Int. No. 687-A, is amended to read as follows:

Table 28-112.7.2

Inspection Type	Initial Fee	Renewal Fee	Comments
Filing fee for report of critical examination of exterior walls and appurtenances thereof.	As provided by rule.		
Filing fee for inspection of potentially compromised buildings or structures.	As provided by rule.		
<i>Filing fee for report of condition assessment of retaining walls.</i>	<i>As provided by rule.</i>		
<input type="checkbox"/> Filing fee for periodic boiler inspection report.	\$30 for each boiler.		
Equipment inspection fee: <input type="checkbox"/> High-pressure boiler periodically inspected as provided by section 28-116.4. <input type="checkbox"/> Reinspection fee following	\$65 for each inspection, for each boiler. As provided by rule.		

a violation.			
<input type="checkbox"/> Filing fee for report of periodic inspection of elevator and other devices.	\$30 for each device.		
<input type="checkbox"/> Equipment inspection fee: Each elevator or other device regulated by this code.	\$65 for each inspection, for each device.		

§2. Item 2 of section 28-201.2.2 of the administrative code of the city of New York, as amended by a local law amending the administrative code of the city of New York in relation to requiring certain buildings or structures to undergo a structural inspection as set forth in Int. No. 687-A, is amended to read as follows:

2. Failure to perform required façade, *retaining wall*, elevator and boiler inspections, structural inspections of buildings and structures that are potentially compromised as defined in section 28-216.12, and to file required reports within the applicable time period.

§3. Title 28 of the administrative code of the city of New York is amended by adding a new section 28-301.2, to read as follows:

§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.*

§4. Section 28-305.1 of Title 28 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§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[and], 305.1.2 *and* 305.4.

§5. Title 28 of the administrative code of the city of New York is amended by adding a new section 28-305.4, to read as follows:

§28-305.4 *Maintenance, inspection and repair of retaining walls. Maintenance, inspection and repair of retaining walls shall comply with the following provisions:*

§28-305.4.1 *Retaining wall. For the purposes of this section, retaining wall shall mean 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 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 five years. The commissioner may establish staggered assessment cycles for retaining walls required to comply with this section.

§28-305.4.3.1 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 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 the following provisions.

§28-305.4.4.1 Except as otherwise provided in subdivision 28-305.4.6, below, the registered design professional shall submit a written report to the commissioner within sixty days of completing the assessment, but not more than five years following submission of the preceding report of assessment, certifying 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.

§28-305.4.4.2 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 *The owner or the owner's agent shall obtain a permit from the department in order to correct the unsafe condition, after securing public safety as provided above.*

§28-305.4.7.2 *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 *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 *The commissioner may grant an extension of time of up to ninety 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 *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 The registered design professional shall not file a report of safe with repair and/or engineering monitoring for the same retaining wall 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.

§6. This local law shall take effect one hundred eighty days after enactment, except that this local law shall not take effect prior to the local law that enacted Int. No. 687-A.

The City of New York, Office of the City Clerk, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on July 23, 2008 and approved by the Mayor on August 12, 2008.

Michael McSweeney, First Deputy City Clerk
Acting Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed Local Law (Local Law 037 of 2008, Council Int. No. 793-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on July 23, 2008:
45 For, 0 Against, 0 Not Voting
Was signed by the Mayor on August 12, 2008
Was returned to the City Clerk on August 12, 2008.

Jeffrey D. Friedlander, Acting Corporation Counsel.