

LANDLORD TENANT LAW

# Local Law 126: A Wake-Up Call for Garage Owners in New York City

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**L**ocal Law 126 (LL-126), passed by the New York City Counsel in 2021 and promulgated by the New York City Department of Buildings (DOB) as 1 RCNY §103-13, sets forth stringent regulations governing the inspection of parking structures throughout New York City by establishing a Periodic Inspection of Parking Structures (PIPS) program that commenced in January 2022.

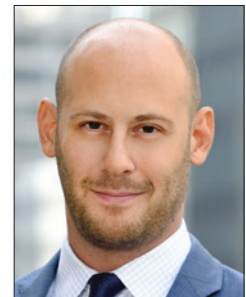
Although LL-126 may serve as a helpful safety measure, unique circumstances affecting parking structures across the five boroughs means that owners must still proactively ensure the maintenance and integrity of these structures to protect their investments and further safeguard against possible liability.

## LL-126: The Basics

LL-126 defines a “parking structure” as “[a] building or space used for the parking or storage of motor vehicles, other than an automotive service station, automotive repair shop, or private garage as defined in chapter 2 of the New York City



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building code” (see [https://www.nyc.gov/assets/buildings/local\\_laws/int\\_no\\_2261-A-2021.pdf](https://www.nyc.gov/assets/buildings/local_laws/int_no_2261-A-2021.pdf), pg. 230). Beginning Jan. 1, 2022, owners of parking structures in New York City are required to hire a New York State Licensed Professional Engineer, who is also a Qualified Parking Structure Inspector (QPSI), to inspect their parking structures and file a full condition assessment report with the DOB every six years.

The QPSI condition assessment report must classify a parking structure into one of three categories, determining the next steps, if any, an owner must take:

- **“Safe”**: Condition of parking structure is deemed safe, and no further action is required;
- **“Safe with Repairs and/or Engineering Monitoring (SREM)”**: Condition of parking

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structure is deemed safe at time of QPSI inspection, but at risk of developing unsafe condition(s) within the next six years. QPSI must recommend repairs or maintenance within a specific timeframe, inspect the parking structure within two years of the condition assessment report and file an amended report with the DOB; and

- **“Unsafe”:** Condition of parking structure is deemed unsafe to persons or property. Repairs must be completed within ninety days of the condition assessment report. Within two weeks of an owner correcting any unsafe condition(s), the QPSI must inspect the parking structure and file an amended report with the DOB, upgrading the parking structure to “SREM” or “Safe” (see *generally* [https://www.nyc.gov/assets/buildings/rules/1\\_RCN\\_103-13.pdf](https://www.nyc.gov/assets/buildings/rules/1_RCN_103-13.pdf), pgs. 2, 8).

LL-126 also established staggered filing deadlines depending on where in New York City a parking structure is located. Owners of parking structures fall into one of three sub-cycles consisting of two-year windows: (i) Sub-Cycle 1A (Manhattan Community Districts 1-7, consisting of the Upper West Side to 110th Street and 59th Street south) must file initial condition assessment reports between Jan. 1, 2022 and Dec. 31, 2023, (ii) Sub-Cycle 1B (all remaining Manhattan Community Districts and all Brooklyn Community Districts) must file initial condition assessment reports between Jan. 1, 2024 and Dec. 31, 2025, and (iii) Sub-Cycle 1C (all Bronx, Queens and Staten Island Community Districts) must file initial condition assessment reports between Jan. 1, 2026 and Dec. 31, 2027.

The civil penalties for noncompliance with LL-126 include \$1,000 per month (late filing of condition assessment report), \$5,000 per year (failure to file condition assessment report, in

addition to monthly penalties for late filing), \$1,000 per month (failure to correct unsafe conditions) and a \$2,000 one-time penalty (failure to correct SREM conditions) (see 1 RCNY §103-13, CHAPTER 100, p9)

### **Subchapter C Maintenance of Buildings**

Effective Nov. 23, 2023, the DOB implemented additional parking structure inspection requirements pursuant to 1 RCNY §103-13. In addition to the condition assessment reports an owner must file every six years depending on a parking structure’s designated sub-cycle, §103-16 required owners of parking structures falling within Sub-Cycle 1B and Sub-Cycle 1C to have an initial observation of the parking structure performed by a QPSI and file those results with the DOB by Aug. 1, 2024 (unless owners of parking structures in Sub-Cycle 1B had already filed a condition assessment report pursuant to § 103-13).

### **Lack of Compliance with LL-126**

As of September 2025, many owners of parking structures in New York City have failed to file initial condition assessment reports despite the possibility of incurring civil penalties for violating LL-126 requirements. Further, those condition assessment reports that were filed indicate that large numbers of parking structures have been designated as “SREM” or “Unsafe.”

There are 939 parking structures that fall within Sub-Cycle 1A (all of which should have filed an initial condition assessment report by December 31, 2023), and 2,297 parking structures that fall within Sub-Cycle 1B (with an upcoming filing deadline of December 31, 2025). Of these combined 3,236 parking structures (i) 1,897 have failed to file an initial condition assessment report, (ii) 548 are classified as “SREM,” and (iii) 235 are classified as “Unsafe.”

Of the 2,738 parking structures that fall within Sub-Cycle 1C (with an initial condition assessment report deadline of December 31, 2027), only 52 have met the LL-126 reporting requirement.

The lack of diligent compliance with LL-126 is unsurprising given the unique issues affecting New York City parking structures, the lack of regular repair and maintenance performed on these structures and the tremendous remedial costs that must be incurred when structural issues remain unaddressed over time.

### **Unique Issues Affecting NYC Parking Structures**

Many of New York City's parking garages are housed in extremely old buildings, sometimes exceeding 100 years in age. These older buildings were often constructed using lightweight and cost-effective cinder concrete, which is made from cement mixed with cinder aggregate. Cinder concrete is particularly porous and vulnerable to water and salt, which are regularly brought into parking structures by vehicles in New York City. Water and salt causes corrosion and expansion of the metal reinforcements within cinder concrete, resulting in concrete spalling (or crumbling).

In addition to salt, variable weather conditions in New York City can also cause significant corrosion and rusting of steel beams and columns, which are often embedded in concrete, making it difficult to identify such issues when they arise. The strength and load-bearing capacity of these structural members can decrease over time without adequate inspection, maintenance and repair, sometimes resulting in catastrophic consequences.

Despite these risks, diligent waterproofing and/or adding protective layers to parking structures can often prevent structural issues from arising, particularly when applied early and often. These prophylactic measures, which can eliminate the

need for costly repairs in the future, should be applied to the exterior and interior of parking structures, which are susceptible to elements brought into garages by vehicles. Regular maintenance will help ensure the integrity of parking structures before they become dangerous and prohibitively expensive to maintain. Owners must ensure that their garage leases specifically require that the operator maintain a proper protective coating on the surface of the garage to prevent the deterioration of the concrete.

These structural issues are exacerbated by the profits historically generated by parking garages in New York City, which incentivize owners or operators, who may lease the garages, to park as many vehicles as possible inside, often through the installation of lifts to greatly increase a garage's capacity. The resulting load may exceed the legal capacity of the parking structure, worsen existing structural defects or create new structural issues, particularly in multistory parking structures above the ground floor. Moreover, the weight of modern vehicles, which is significantly greater than the weight of vehicles produced when many of New York City's older parking structures were built, further adds stress to the structure's load-bearing capacity.

These issues should be considered by owners of parking structures, who must be extremely diligent about conducting regular maintenance and repairs or ensuring that tenant-operators comply with maintenance and repair obligations specifically set forth in their leases.

### **Owners Must Assert Their Rights Early and Often**

Many parking structures in New York City are leased by owners to garage operators, who are often special purpose entities responsible for maintenance and repair obligations pursuant to the terms of a lease. The risks associated with

parking structures means that an owner may be left with tremendous expenses if an insolvent garage operator determines that cost prohibitive maintenance and repairs do not weigh on the side of the expenditure, particularly where the garage has fallen into disrepair over time.

Even though LL-126 may serve as a helpful warning to parking structure owners, the associated expenses - including costs to hire a QPSI, filing fees, maintenance and repair obligations if a parking structure is designated as “SREM” or “Unsafe,” and potential civil penalties - may be overly burdensome for garage operators who are otherwise obligated to bear such costs pursuant to a lease.

It is therefore critical that any lease between an owner and operator not only include stringent maintenance and repair obligations for the operator (including to the parking structure itself), but also that owners enforce these obligations against operators early and often. Proactive enforcement of these lease obligations can prevent parking structures from falling into disrepair and avoid the risk that insolvent operators will simply walk away from the premises, leaving owners without any recourse and exponential costs to repair critical structural issues.

These risks are particularly prevalent in lower Manhattan, where the profits historically generated by parking garages have been significantly reduced by New York City’s Central Business District Tolling Program, also known as congestion pricing. According to the Metropolitan Transportation Authority, since Jan. 5, 2025, when congestion pricing went into effect, there have been approximately 60,000 fewer vehicles entering the congestion relief zone south of 60th Street on a daily basis. This substantial reduction in vehicle traffic has resulted in less demand for

parking garages, lower profits and a reduced incentive for operators to maintain and repair parking structures in that area.

### **Insurance Considerations for Owners**

Undetected and/or unrepaired structural issues may ultimately escalate into serious hazards, including the possibility of structural collapse. In densely populated New York City, the ramifications of a structural collapse can be particularly severe, including the possibility of injury or death, property damage to vehicles and nearby buildings, costs to demolish and clear debris from the collapsed structure, and costs to repair, replace or rebuild the collapsed structure.

It is therefore critical that owners of parking structures ensure that adequate insurance policies are in place to protect against such a catastrophe. If the parking structure is leased to an operator, the lease should require the operator to obtain adequate insurance policies, naming the owner (or lessor) as an additional insured.

General liability policies, subject to enumerated exceptions, may indemnify an owner and defray an owner’s attorney fees where the owner is named as a defendant in, *inter alia*, personal injury actions, wrongful death actions, and subrogation actions brought by insurers of damaged or destroyed vehicles and neighboring property owners who have suffered property damage.

Robust general liability policies with umbrella and/or excess coverage help protect owners against such costs. If the parking structure is leased, an operator may obtain the minimum general liability coverage permissible under the lease. Owners should therefore ensure that the minimum coverage requirements set forth in the lease are adequate.

Owners of leased parking structures may further protect themselves by ensuring that they—or landlord entities, which are often special

purpose entities affiliated with owners—obtain separate general liability coverage to safeguard against potential liability.

A robust commercial property insurance policy should contain coverage in an amount sufficient to repair, replace or rebuild the parking structure in the event of a collapse. Owners should consult insurance professionals and, if the parking structure is leased to an operator, ensure that the operator's property insurance policy contains location base coverage sufficient to repair, replace or rebuild the parking structure where the cause of the collapse and/or resulting damage is not excluded or subject to noncompliance with a specified protective safeguard endorsement.

Further, any lease between an owner and operator should contain a carefully tailored provision requiring the operator to repair, replace or rebuild a parking structure that has collapsed at its sole cost and expense, whether or not the operator's property insurance proceeds cover such costs. These lease provisions should be broad enough to include a parking structure that has collapsed due to an operator's failure to comply with maintenance and repair obligations set forth in the lease. Even if a parking structure lease contains such obligations, a special purpose operator may be unable to cover costs to repair, replace or rebuild in the event of a collapse, which should further incentivize owners to enforce maintenance and repair obligations early and often.

Property insurance policies should also cover costs imposed by New York City agencies, such as the Department of Housing Preservation and Development, for demolition and debris removal, which can be exceedingly high. In the event that a parking structure is leased to an operator, it is imperative that the lease include the operator's obligation to pay, whether as "additional rent" or otherwise, any and all governmental charges and impositions associated with the premises.

Property insurance policies may also include coverage for loss of business income and extra expense to cover any lost profits and continuing expenses, including rent payable under a lease while an operator's garage is closed. Requiring an operator to obtain a property insurance policy with this coverage part can be critical, particularly in the case of an operator that is a special purpose entity without adequate capital to meet its payment obligations to the owner or landlord of a parking structure.

### **Conclusion**

While LL-126 serves as a warning to parking structure owners in New York City, its enforcement provisions do not adequately safeguard their investments. Owners across the five boroughs must therefore be particularly assiduous in maintaining and repairing their parking structures, including through the enforcement of strict lease provisions governing the insurance, maintenance and repair obligations of tenant-operators.