

Proposed Int. No. 578-A

By Council Members Dilan, Fidler, Gonzalez, James and Reyna (by request of the Mayor)

**A LOCAL LAW**

To amend the New York city charter and the administrative code of the city of New York, in relation to enacting the New York city construction codes and repealing chapter 1 of title 26 of the administrative code, sections 27-106, 27-118.1, 27-124, 27-125, 27-126, 27-127, 27-128, 27-129, 27-130, 27-131, 27-132, 27-133, 27-134, 27-135, 27-136 and 27-137 of the administrative code, articles 9, 10, 11, 12, 13, 14,15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 27 of subchapter 1 of chapter 1 of title 27 of the administrative code, subchapter 19 of chapter 1 of title 27 of the administrative code and chapters 1, 2, 3, 5, 6, 7 and 8 of title 28 of the administrative code.

Be it enacted by the Council as follows:

Section 1. Items (v) (vi) and (vii) of paragraph b of subdivision 5 of section 1041 of the New York city charter are amended to read as follows:

(v) statement or communication effecting a non-continuous closing of a street; or (vi) statement or communication adopted pursuant to sections fifty-one, one hundred ninety-seven-a except pursuant to the first sentence of subdivision b or the third sentence of subdivision c of section one hundred ninety-seven-a, one hundred ninety-seven-c except pursuant to subdivisions i and l of section one hundred ninety-seven-c, one hundred ninety-nine, two hundred, two hundred one, two hundred two and seven hundred five of this charter [; or (vii) building code reference standards amended, revised or added by the commissioner of the department of buildings in consultation with the fire commissioner on all issues relating to fire safety after notice and a public hearing and published as part of the administrative code].

§2. Chapter 1 of title 26 of the administrative code of the city of New York is REPEALED.

§3. Section 27-101 of the administrative code of the city of New York is amended to read as follows:

§27-101 Title. This code shall be known and may be cited as the “1968 building code of the city of New York” or the “1968 building code”, and is hereinafter referred to as “this code” or “the code”.

§4. Section 27-103 of the administrative code of the city of New York is amended to read as follows:

§ 27-103 Scope. [This] On and after July 1, 2008 this code shall apply to the minimum requirements and standards for the construction, alteration, repair, [demolition, removal, maintenance,] occupancy and use of new and existing buildings in the city of New York [including the installation, alteration, repair, maintenance and use of service equipment therein , except as provided in section six hundred forty-three of the charter] in accordance with and to the extent provided for by chapter 1 of title 28 of the administrative code and the New York city construction codes. On and after July 1, 2008, administration and enforcement of this code shall be in accordance with title 28 of the administrative code.

§5. Section 27-106 of the administrative code of the city of New York is REPEALED.

§6. Article 4 of subchapter 1 of chapter 1 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-123.3.

§27-123.3 Definition. For the purposes of this article, the term “existing building” means a building in existence prior to December 6<sup>th</sup>, 1968 or a building constructed in accordance with the building laws and regulations in force prior to such date in accordance with section 27-105 of this code.

§7. Sections 27-118.1, 27-124, 27-125, 27-126, 27-127, 27-128, 27-129, 27-130, 27-131, 27-132, 27-133, 27-134, 27-135, 27-136 and 27-137 of the administrative code of the city of New York are REPEALED.

§8. Articles 9, 10, 11, 12, 13, 14,15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 27 of subchapter 1 of chapter 1 of title 27 of the administrative code of the city of New York are REPEALED.

§9. Subchapter 19 of chapter 1 of title 27 of the administrative code of the city of New York is REPEALED.

§10. Section 2 of local law number 99 for the year 2005 is amended to read as follows:

§ 2. This local law shall take effect on July 1, [2007] 2008 [provided, however that prior to such date a New York city building code based on the 2003 edition of the International Building Code, a New York city mechanical code based on the 2003 edition of the International Mechanical Code, a New York city residential code based on the 2003 edition of the International Residential Code, a New York city fuel gas code based on the 2003 edition of the International Fuel Gas Code, all such international codes published by the International Code Council, with recommended changes that reflect the unique character of the city, shall be enacted and that if a local law or laws enacting such New York city codes are not enacted prior to July 1, 2007, this local law shall not take effect, and provided, further,] except that prior to the effective date of this local law, the commissioner shall take [all] administrative actions necessary for the timely implementation of this local law including but not limited to the promulgation of rules.

§11. Chapters 1, 2 and 3 of title 28 of the administrative code of the city of New York, as added by local law number 99 for the year 2005, are REPEALED and new chapters 1, 2, 3, 4 and 5 are added to read as follows:

CHAPTER 1  
ADMINISTRATION

ARTICLE 101  
GENERAL

§28-101.1 Title. The provisions of this chapter shall apply to the administration of the codes set forth in this title and the 1968 building code. The codes set forth in this title shall be known and may be cited as the “New York city construction codes” and shall consist of:

The New York city plumbing code.

The New York city building code.

The New York city mechanical code.

The New York city fuel gas code.

§28-101.2 Intent. The purpose of this code is to provide reasonable minimum requirements and standards, based upon current scientific and engineering knowledge, experience and techniques, and the utilization of modern machinery, equipment, materials, and forms and methods of construction, for the regulation of building construction in the city of New York in the interest of public safety, health and welfare, and with due regard for building construction and maintenance costs.

§28-101.3 Codes. Any reference in this title to “this code” or “the code” shall be deemed to be a reference to this title and all of the codes comprising the New York city construction codes unless the context or subject matter requires otherwise.

§28-101.4 Effective date. Except as otherwise provided in sections 28-101.4.1, 28-101.4.2, 28-101.4.3 and 28-101.4.4 on and after the effective date of this code, all work shall be performed in accordance with the provisions of this code.

§28-101.4.1 Permit issued or work commenced prior to effective date. If a permit for work was issued prior to the effective date of this code or, if no permit was necessary, work was commenced prior to such effective date, all of the provisions of chapter 1 of title 27 of the administrative code as heretofore in effect shall apply to such work.

§28-101.4.2 Applications for construction document approval submitted prior to and within twelve months after the effective date of this code. Any work for which an application for construction document approval was submitted to the department prior to the effective date of this code and not thereafter abandoned, or for which an application for construction document approval is submitted to the department within a period of twelve months after such date may, at the option of the owner, be

performed in its entirety in accordance with the provisions of this code, or in accordance with the 1968 building code, provided that such work is commenced within twelve months after the date of issuance of a permit therefore and is diligently carried on to completion. The commissioner may, for good cause, extend the time period for commencement of the work beyond 12 months. Where the owner elects to perform the work in compliance with the 1968 building code, the following conditions shall apply:

1. Except as otherwise limited by the commissioner, administration and enforcement of the 1968 building code shall be in accordance with this code, including but not limited to approval of construction documents, issuance of permits and certificates of occupancy, tests and inspections, penalties and enforcement. Controlled inspections and semi-controlled inspections as referenced in the 1968 building code shall be deemed to be special inspections and shall comply with the provisions of this code relating to special inspections. Materials regulated in their use by the 1968 building code shall be subject to applicable provisions of this code.
2. Safety of public and property during construction operations including demolition shall be governed by chapter 33 of the New York city building code.

§28-101.4.3 Optional use of the 1968 building code for alteration of existing buildings. At the option of the owner, and subject to appropriate approval, a permit may be issued after the effective date of this code authorizing work on existing buildings constructed in accordance with the 1968 building code or with the building laws in effect prior to the effective date of the 1968 building code, to be performed in accordance with the requirements and standards set forth in the 1968 building code, subject to the following conditions:

1. The installation and alteration of all appliances, equipment and systems regulated by the New York city fuel gas code, the New York city plumbing code and the New York city mechanical

code shall be governed by applicable provisions of those codes relating to new and existing installations.

2. The installation, alteration and additions to fire protection systems regulated by Chapter 9 of the New York city building code, including a change of occupancy group that would require such systems, shall be governed by applicable provisions of such chapter and related referenced standards. With respect to existing buildings, references to occupancy classifications in Chapter 9 of the New York city building code shall be deemed to refer to the equivalent occupancy classification of the 1968 building code.
3. The installation and alteration of elevators, conveyors, and amusement rides shall be governed by chapter 30, appendix K of the New York city building code and the rules of the department.
4. Safety of public and property during construction operations including demolition shall be governed by chapter 33 of the New York city building code.
5. Where the estimated cost of such alteration in any twelve-month period exceeds fifty percent of the cost of replacement of the building or where there is a change in the main use or dominant occupancy of the building, facilities for people with physical disabilities shall be provided in accordance with chapter 11 of the New York city building code as if the building were hereafter erected.
6. Encroachments onto the public right of way shall be governed by chapter 32 of the New York city building code.
7. Except as otherwise limited by the commissioner, administration and enforcement of the 1968 building code shall be in accordance with this code, including but not limited to approval of construction documents, issuance of permits and certificates of occupancy, tests and inspections, penalties and enforcement. Controlled inspections and semi-controlled inspections

as referenced in the 1968 building code shall be deemed to be special inspections and shall comply with the provisions of this code relating to special inspections. Materials regulated in their use by the 1968 building code shall be subject to applicable provisions of this code.

§28-101.4.4 Alterations that reduce the fire safety or structural safety of existing buildings. Notwithstanding any other provision of this code, where the alteration of any existing building in accordance with a provision of this code would result in a reduction of the fire safety or structural safety of such building, relevant provisions of the 1968 building code shall apply to such alteration unless there is full compliance with those provisions of this code that would mitigate or offset such reduction of fire protection or structural safety.

§28-101.5 Definitions. As used in this chapter and elsewhere in this title, the following terms shall have the following meanings unless the context or subject matter requires otherwise:

1968 BUILDING CODE. Chapter 1 of title 27 of the administrative code as hereafter in effect.

ACCEPTANCE OR ACCEPTED. In reference to construction documents, the endorsement by the department of construction documents with less than full examination by the department based on the professional certification of a registered design professional in accordance with a program established by the commissioner.

ADDITION. An alteration of a building in existence that increases its exterior dimensions including but not limited to an extension or increase in floor area or height (including an increase in height or area resulting from the construction of a rooftop structure for mechanical equipment) of the building.

ADMINISTRATIVE CODE. The administrative code of the city of New York.

ALTERATION. Any construction, addition, change of use or occupancy, or renovation to a building or structure in existence.

APPROVAL OR APPROVED. In reference to construction documents, the determination by the

department after full examination that submitted construction documents comply with this code and other applicable laws and rules. In reference to materials, the determination by the commissioner that material is acceptable for its intended use.

APPROVED AGENCY. An established and recognized agency, or other qualified person, regularly engaged in conducting tests or furnishing inspection services, when approved pursuant to department rules as qualified to perform or witness identified testing or inspection services.

APPROVED FABRICATOR. An established and qualified person, firm or corporation approved by the commissioner to custom manufacture or build products or assemblies regulated by this code.

APPROVED INSPECTION AGENCY. An approved agency that is approved by the department as qualified to perform one or more of the inspections required by this code.

APPROVED TESTING AGENCY. An approved agency that is approved by the department as qualified to test and evaluate the performance of one or more of the materials regulated in their use by this code. Such term shall include, when approved pursuant to department rules, a third party testing or certification agency, evaluation agency, testing laboratory, testing service or other entity concerned with product evaluation.

ARCHITECT. A person licensed and registered to practice the profession of architecture under the education law of the state of New York.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy. The term shall be construed as if followed by the phrase “structure, premises, lot or part thereof” unless otherwise indicated by the text.

CHARTER. The New York city charter.

CERTIFICATE OF COMPLIANCE. A certificate stating that materials meet specified standards or that work was done in compliance with approved construction documents and other applicable provisions of

law and with respect to specified service equipment, a certificate issued by the department authorizing the operation of such equipment.

CITY. The city of New York.

COMMISSIONER. The commissioner of buildings of the city of New York, or his or her duly authorized representative.

CONSTRUCTION DOCUMENTS. Plans and specifications and other written, graphic and pictorial documents, prepared or assembled for describing the design, location and physical characteristics of the elements of the project necessary for obtaining a building permit.

DEFERRED SUBMITTAL. Those portions of the design that are not submitted at the time of the application for construction document approval and that are to be submitted to the department within a specified period of time after the issuance of a permit.

DEMOLITION. Full or partial demolition.

DEMOLITION, FULL: The dismantling, razing, or removal of all of a building or structure, including all operations incidental thereto.

DEMOLITION, PARTIAL: The dismantling, razing, or removal of structural members, floors, interior bearing walls, and/or exterior walls or portions thereof, including all operations incidental thereto.

DEPARTMENT. The department of buildings of the city of New York.

ENGINEER. A person licensed and registered to practice the profession of engineering under the education law of the state of New York.

ENLARGEMENT. An addition.

EXISTING BUILDING OR STRUCTURE. (i) A building or structure in existence prior to the effective date of this code or one for which a lawful building permit was issued for the erection of such building or structure prior to the effective date of this code. (ii) A building or structure erected in accordance with the

1968 building code under a lawful building permit issued for the erection of such building or structure after the effective date of this code in accordance with section 28-101.4.2 of this code.

FABRICATED ITEM. Products and assemblies regulated by this code, that are custom manufactured, or built prior to their incorporation into the work at the job site. Fabricated items shall not include listed, labeled or approved products or assemblies.

FIRE PROTECTION PLAN. A report containing a narrative description of the life and fire safety systems and evacuation system for a structure.

HEREAFTER. On or after the effective date of this code.

HERETOFORE. Before the effective date of this code.

INSPECTION CERTIFICATE. Identification applied to a product by an approved agency containing the name of the manufacturer, the function and performance characteristics, and the name and identification of the approved agency that indicates that the product or material has been inspected and evaluated by such approved agency. An inspection certificate shall also mean a certificate issued by the department upon satisfactory completion of an inspection or test.

LABEL. Identification applied to material by the manufacturer or an approved agency that contains the name of the manufacturer, the function and performance characteristics of the material, and the name and identification of the approved agency that conducted the evaluation of a representative sample of such material.

LABELED. Material to which has been attached a label, symbol or other identifying mark of the manufacturer that contains the name of the manufacturer, the function and performance characteristics of the product or material, and the name and identification of an approved agency and that indicates that a representative sample of the material has been tested and evaluated by an approved agency for compliance with nationally recognized standards or tests to determine suitable usage in a specified

manner.

LAND SURVEYOR. A person licensed and registered to practice the profession of land surveying under the education law of the state of New York.

LISTED. Material identified in a list published by an approved agency that maintains periodic inspection of production of listed material or periodic evaluation services and whose listing states either that the material meets identified nationally recognized standards or has been tested and found suitable for a specified purpose when installed in accordance with the manufacturer's installation instructions.

LETTER OF COMPLETION. A document issued by the department indicating that permitted work has been completed, including satisfactory final inspection in accordance with this code. A letter of completion is issued only in circumstances where a certificate of occupancy is not required upon completion of the permitted work.

LIMITED PLUMBING ALTERATIONS. An alteration to a plumbing system where the total cost of the proposed work in the building does not exceed twenty five thousand dollars in any 12 month period and the proposed work is limited to the following:

1. The installation of new plumbing or gas piping, or the rerouting of existing plumbing or gas piping;
2. The addition of not more than two plumbing fixtures or fixture connections;
3. The mounting of new plumbing fixtures on existing roughings, other than the mere replacement of existing fixtures constituting a minor alteration or ordinary repair under this code; and
4. The installation or replacement of backflow preventers.

LIMITED SPRINKLER ALTERATIONS. An alteration to an existing sprinkler system where the total cost of the proposed work in the building does not exceed twenty five thousand dollars in any 12-month period and the proposed work is limited to the following:

1. Replacement of parts required for the operation of a sprinkler system;
2. Replacement of sprinkler heads, provided that orifice sizes, type and deflector positions remain the same;
3. Changes that do not alter the type of sprinkler system;
4. Relocation of piping that does not affect the operation of the sprinkler system; and
5. Rearrangement of not more than 20 sprinkler heads in areas presently sprinklered in light hazard occupancy, as such term is defined in reference standards, which will remain in such occupancy, provided that the addition of sprinkler heads in existing systems shall be limited to light hazard occupancies in rooms or spaces not exceeding 800 square feet (74.3 m<sup>2</sup>) requiring only one head with the maximum spacing allowed by the code, and provided that the number of new heads does not exceed a total of five.

LIMITED STANDPIPE ALTERATIONS. An alteration to an existing standpipe system where the total cost of the proposed work in the building does not exceed twenty five thousand dollars in any 12-month period and the proposed work is limited to the following:

1. Replacement of parts required for the operation of a combined standpipe system; and
2. Relocation of combined standpipe auxiliary hose sources and cabinets within 10 feet (3048 mm) of their original location, provided that the existing covered area is not affected and provided that such relocation complies with this code for a new installation.

MANUFACTURER'S DESIGNATION. Identification applied to material by the manufacturer indicating that the material complies with a specified standard or set of rules.

MARK. Identification applied to a product by the manufacturer indicating the name of the manufacturer and the function of a product or material.

MATERIALS. Materials, assemblies, appliances, equipment, devices, systems, products and methods of

construction regulated in their use by this code or regulated in their use by the 1968 building code.

OCCUPANCY. The purpose or activity for which a building or space is used or is designed, arranged or intended to be used.

OWNER. Any person, agent, firm, partnership, corporation or other legal entity having a legal or equitable interest in, or control of the premises.

PARTY WALL. A fire division on an interior lot line common to two adjoining buildings.

PERMIT. An official document or certificate issued by the commissioner that authorizes performance of specified work or activity.

PERSON. An individual, partnership, corporation, or other legal entity.

PREMISES. Land, improvements thereon, or any part thereof.

PROFESSIONAL CERTIFICATION. A personal verification of a registered design professional made under such professional's signature and seal that accompanies construction documents and other submittal documents filed with the department and that attests that such documents do not contain false information and are in compliance with all applicable provisions of law.

REGISTERED DESIGN PROFESSIONAL. An architect or engineer.

REGISTERED DESIGN PROFESSIONAL OF RECORD. The registered design professional who prepared or supervised the preparation of applicable construction documents filed with the department.

REQUIRED. Shall mean required by the provisions of this code.

RETAINING WALL. A wall designed to prevent the lateral displacement of soil or other materials.

SIGN-OFF. The issuance by the department of a letter of completion or certificate of occupancy for permitted work indicating the satisfactory completion of all required inspections and receipt by the department of all required submittal documents.

SERVICE EQUIPMENT. Equipment or systems, and all components thereof, that provide sanitation, power, light, heat, ventilation, air conditioning, refuse disposal, fire-fighting, transportation or other facilities for buildings.

SINGLE ROOM OCCUPANCY MULTIPLE DWELLING. See section 28-107.2.

SPECIAL INSPECTION. Inspection of selected materials, equipment, installation, fabrication, erection or placement of components and connections, to ensure compliance with approved construction documents and referenced standards as required by chapter 17 of the New York city building code or elsewhere in this code or its referenced standards.

SPECIAL INSPECTOR. An individual having required qualifications and authorized by the department to perform or witness particular special inspections required by this code or by the rules of the department, including but not limited to a qualified registered design professional so authorized.

SUPERINTENDENT OF CONSTRUCTION (CONSTRUCTION SUPERINTENDENT). An individual, when authorized pursuant to department rules as qualified to superintend permitted construction work on behalf of the owner.

STRUCTURE. That which is built or constructed, including among others: buildings, stadia, tents, reviewing stands, platforms, stagings, observation towers, radio towers, tanks, trestles, open sheds, shelters, fences, and display signs.

SUBMITTAL DOCUMENTS. Completed application forms, construction documents, reports and any other required documents submitted in compliance with this code or other applicable laws and rules including but not limited to special inspection reports, certifications or approvals from other governmental agencies and other data required by this code or by the department.

USE (USED). The purpose for which a building, structure, or space is occupied or utilized, unless otherwise indicated by the text. Use (used) shall be construed as if followed by the words “or is intended,

arranged, or designed to be used.”

UTILITY COMPANY OR PUBLIC UTILITY COMPANY. The term shall be construed to have the same meaning as that contained in section two of the New York state public service law.

UTILITY CORPORATION OR PUBLIC UTILITY CORPORATION. The term shall be construed to have the same meaning as that contained in section two of the New York state public service law.

WORK NOT CONSTITUTING MINOR ALTERATIONS OR ORDINARY REPAIRS. See section 28-105.4.2.1.

WRITING (WRITTEN). The term shall be construed to include handwriting, typewriting, printing, photo-offset, or any other form of reproduction in legible symbols or characters, including, in the discretion of the commissioner, electronic media.

WRITTEN NOTICE. A notification in writing delivered by hand to the person or parties intended, or delivered at or sent by mail or in the discretion of the commissioner by electronic media to the last address known to the party giving such notice.

ZONING RESOLUTION. The zoning resolution of the city of New York, adopted December fifteenth, nineteen hundred sixty-one, including all amendments thereto.

## ARTICLE 102 APPLICABILITY

§28-102.1 General. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where a general requirement conflicts with a specific requirement, the specific requirement shall govern. Where British and metric units of measurement conflict, the British units shall govern.

§28-102.2 Other laws. The provisions of this code do not presumptively provide for matters that are contained in the charter, the labor law, the multiple dwelling law, the zoning resolution, or the general city law. Where there is conflict or inconsistency between the requirements of this code and other applicable

laws and rules, unless otherwise required, such conflict shall be resolved in favor of the more restrictive requirement.

§28-102.3 Separability. If any clause, sentence, paragraph, section or part of this code shall be adjudged to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§28-102.4 Existing buildings. The lawful use or occupancy of any existing building or structure, including the use of any service equipment therein, may be continued unless a retroactive change is specifically required by the provisions of this code or other applicable laws or rules. The continuation of the unlawful use or occupancy of a building or structure after the effective date of this code contrary to the provisions of this code or other applicable law or rule shall be a violation of this code.

§28-102.4.1 Existing buildings must comply with the applicable retroactive requirements of the 1968 building code. Existing buildings must comply with the applicable retroactive requirements of the 1968 building code including those requiring the installation of fire safety and building safety systems and the filing of verifying reports with the department of such installations by the dates specified in section 27-228.5 of the administrative code or in other applicable provisions of such 1968 building code. A violation of such provisions shall be a violation of this code.

§28-102.4.2 Change in use or occupancy. Except as otherwise provided in sections 28-101.4.1, 28-101.4.2 28-101.4.3 or 28-101.4.4 changes in the use or occupancy of any building or structure made after the effective date of this code shall comply with the provisions of this code. Any changes made in the use or occupancy of a building or structure not in compliance with this code shall be prohibited and shall be a violation of this code. After a change in use or occupancy has been made in a building, the re-establishment of a prior use or occupancy that would not be lawful in a new building of the

same construction class shall be prohibited unless and until all the applicable provisions of this code and other applicable laws and rules for such reestablished use or occupancy shall have been complied with. A change from a use prohibited by the provisions of this code, but which was permitted prior to the effective date of this code, to another use prohibited by the provisions of this code shall be deemed a violation of this code.

§28-102.4.3 Alteration of existing structures. Except as otherwise provided in sections 28-101.4.1, 28-101.4.2, 28-101.4.3 and 28-101.4.4, existing structures altered after the effective date of this code shall comply with the provisions of this code. In accordance with subdivision eleven of section three of the multiple dwelling law and article 4 of subchapter 1 of the 1968 building code, at the option of the owner, multiple dwellings erected prior to December 6, 1969 may be altered and buildings erected prior to December 6, 1969 may be converted to multiple dwellings in accordance with applicable provisions of the multiple dwelling law and the building laws and regulations in effect prior to December 6, 1968, provided the general safety and public welfare are not thereby endangered.

§28-102.4.4 Occupancy classifications. With regard to existing buildings, references to occupancy classifications in this code shall be deemed to refer to the equivalent occupancy classification under the 1968 building code.

§28-102.5 Grading of lots. The regulation of lots, in conformity with the street on which they are situated, shall be calculated at curb level. Where a lot has more than one street frontage, and is so situated that the street frontages intersect, the curb of the longest street frontage shall be used. When the street frontages do not intersect, the curb along each frontage shall be used to one-half the depth of the lot between street frontages. A lot as referred to in this section 28-102.5 shall mean a parcel of land twenty-five feet by one hundred feet, or less, in one ownership whether adjacent land be in the same or other ownership; but, for this purpose, no land in the same ownership may be divided into lots smaller than

twenty-five feet by one hundred feet.

§28-102.6 Appendices. All enacted appendices are a part of the provisions of this code.

ARTICLE 103  
DUTIES AND POWERS OF COMMISSIONER OF BUILDINGS

§28-103.1 Jurisdiction. This code shall be enforced by the commissioner of buildings, pursuant to the provisions of section six hundred forty-three of the New York city charter. However, the commissioner of small business services may also enforce all of the provisions of this code with respect to buildings under the jurisdiction of the department of small business services and the fire commissioner may also enforce all the provisions of this code relating to:

1. The approved number of persons in places of assembly (overcrowding);
2. Obstruction of aisles, corridors, and exits;
3. The posting and availability for inspection of certificates of occupancy or other authorization of lawful occupancy, certificates of compliance and place of assembly certificates of operation;
4. The maintenance of fire, smoke and carbon monoxide detection and alarm systems, fire extinguishing systems, refrigerating systems, storage tanks and auxiliary storage tanks for oil burning equipment, exit signs and path markings, and any fire or life safety system, equipment or device intended for use by fire fighting personnel or whose use or operation is subject to the New York city fire code or other law or rule enforced by the New York city fire department, and any related installation and signage;  
and
5. The installation and testing of fire alarm systems, smoke-detecting and carbon monoxide detecting devices that are interconnected with a fire alarm system or monitored by a central station, and fire extinguishing systems for commercial cooking appliances.

§28-103.1.1 Installation of equipment required by the New York city fire code. Where the installation of exit signs, emergency means of egress illumination, special mechanical ventilation and sprinkler and

fire alarm systems is required by the New York city fire code, the fire commissioner shall require such installations to be in accordance with this code.

§28-103.1.2 Enforcement of New York city construction codes on property within the jurisdiction of the department of small business services. This code and the 1968 building code shall apply to property within the jurisdiction of the department of small business services pursuant to the New York city charter including, but not limited to, structures on waterfront property used in conjunction with and in furtherance of waterfront commerce and/or navigation. It shall be administered and enforced by the department of small business services in the same manner as property within the jurisdiction of the department.

§28-103.2 Interpretation. This code shall be liberally interpreted to secure the beneficial purposes thereof.

§28-103.3 Variations. The requirements and standards prescribed in this code shall be subject to variation in specific cases by the commissioner, or by the board of standards and appeals, under and pursuant to the provisions of paragraph two of subdivision (b) of section six hundred forty-five and section six hundred sixty-six of the New York city charter, as amended.

§28-103.4 Appeals. An appeal from any decision or interpretation of the commissioner may be taken to the board of standards and appeals pursuant to the procedures of the board, except as provided in section 25-205 of the administrative code or as otherwise provided in this code.

§28-103.5 Seal; judicial notice. The commissioner may design and adopt a seal for the department for use in the authentication of the orders and proceedings of the department, and for such other purposes as the commissioner may prescribe. The courts shall take judicial notice of such seal, and of the signature of the commissioner, the deputy commissioners, and the borough superintendents of the department.

§28-103.6 Proofs, affidavits and oaths. Proofs, affidavits and examinations as to any matter arising in connection with the performance of any of the duties of the department may be taken by or before the

commissioner, or a deputy commissioner, or such other person as the commissioner may designate; and such commissioner, deputy or other person may administer oaths in connection therewith.

§28-103.7 Cooperation of other departments. Upon request of the commissioner, it shall be the duty of all departments to cooperate with the department of buildings at all times, and to furnish to such department such information, reports and assistance as the commissioner may require.

§28-103.8 Matters not provided for. Any matter or requirement essential for fire or structural safety or essential for the safety or health of the occupants or users of a structure or the public, and which is not covered by the provisions of this code or other applicable laws and rules, shall be subject to determination and requirements by the commissioner in specific cases.

§28-103.9 Additional tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method of construction does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the commissioner shall have the authority to require tests as evidence of compliance to be made at no expense to the city. Test methods shall be as specified in this code, or by other recognized test standards approved by the commissioner. In the absence of recognized and accepted test methods, the commissioner shall approve the testing procedures. Tests shall be performed as directed by the commissioner. Reports of such tests shall be retained by the department for the period required for retention of public records.

§28-103.10 Supporting documentation for materials. Whenever this code or the rules of the department permits the use of material regulated in its use by this code or the 1968 building code without the prior approval of the commissioner, the commissioner may, in the interest of public safety, require the submittal of supporting documentation that any material used or proposed to be used complies with the applicable code standard for such use. Such supporting documentation may consist of but shall not be

limited to certification documents of an approved agency, test reports, analysis, computations or other evidence of such compliance.

§28-103.11 Applications and permits. The department shall receive and review applications, construction documents, and other submittal documents and shall issue permits, in accordance with the provisions of this code.

§28-103.12 Identification. Department personnel shall carry metal badges with suitable inscriptions thereon or other prescribed identification when inspecting structures or premises or otherwise in the performance of their duties under this code.

§28-103.13 Right of entry. The commissioner or his or her authorized representatives, in the discharge of their duties, shall have the right to enter upon and inspect, at all reasonable times, any buildings, enclosure, premises, or any part thereof, or any signs or service equipment contained therein or attached thereto for the purpose of determining compliance with the provisions of this code and other applicable building laws and rules. Officers and employees of the department shall identify themselves by exhibiting the official badge or other identification prescribed by the department; and other authorized representatives of the commissioner shall identify themselves by producing and exhibiting their authority in writing signed by the commissioner. If access is not obtained, the commissioner shall have recourse to remedies provided by law to secure entry.

§28-103.14 Department records. The department shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

§28-103.14.1 List of permits for cellular antenna. The commissioner shall maintain a separate list of alteration permits issued for the erection or placement of antennae used to provide cellular telephone or similar service or any structure related to such service which shall, at a minimum, set forth the

name, business address and business telephone number of the applicant, the date of the application, the date the permit was issued, the location for which the permit was issued, including the premises address and the zoning district, whether residential, commercial, or manufacturing, and the number of permits issued for such purpose at the same location. Such list shall be made available to the public upon request between regular business hours and shall be available to the public in electronic format on a 24-hour basis on the department's website.

§28-103.15 Insurance. The commissioner may require applicants for permits to obtain and furnish proof of workers' compensation, disability and general liability insurance in such amounts and in accordance with such specifications as shall be set forth in the rules of the department or as otherwise required by law.

§28-103.16 Inspections of completed buildings, structures, signs, service equipment and construction machinery and equipment. In addition to other required inspections, the commissioner may make or require inspections of completed buildings, structures, signs, service equipment installations and construction machinery and equipment to ascertain compliance with the provisions of this code and other laws that are enforced by the department. Such inspections may be made on behalf of the department by officers and employees of the department and other city departments and governmental agencies; and by approved agencies, special inspectors or other persons when the commissioner is satisfied as to their qualifications and reliability. The commissioner may accept inspection and test reports from persons authorized by this code or by the commissioner to perform such inspections. Such reports shall be filed with the department.

§28-103.17 Certain outside work, employment and financial interests of department employees prohibited. It shall be unlawful for any officer or employee of the department to be engaged in conducting or carrying on business as an architect, engineer, carpenter, plumber, iron worker, mason or builder, or

any other profession or business concerned with the construction, alteration, sale, rental, development, or equipment of buildings. It shall also be unlawful for such employees to be engaged in the manufacture or sale of automatic sprinklers, fire extinguishing apparatus, fire protection devices, fire prevention devices, devices relating to the means or adequacy of exit from buildings, or articles entering into the construction or alteration of buildings, or to act as agent for any person engaged in the manufacture or sale of such articles, or own stock in any corporation engaged in the manufacture or sale of such articles.

§28-103.18 Investigation of complaints. The commissioner shall cause all complaints to be investigated. For purposes of investigating complaints of violations of law enforced by the department, the commissioner may by rule establish a program to classify structures based on their enforcement history and may create criteria for such classification and assign enforcement resources accordingly.

§28-103.18.1 Complaint records. The department shall keep records of complaints made by any person in reference to any building or other matter under the jurisdiction of the department. Recorded complaints shall include the name and residence of the complainant, the name of the person complained of, the date of the entry of the complaint and any suggested remedies. Except for entries of names and residences of the complainants, such records shall be made available for public examination.

§28-103.19 Addition, modification, and deletion of referenced standards. The standards referenced in this code may be added to, deleted or modified pursuant to local law or by rule of the department. Every such rule adding, deleting or modifying a referenced standard shall indicate the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this code to which such standard applies. The commissioner shall act in consultation with the fire commissioner on matters relating to fire safety.

Exception: Referenced standards in the New York city plumbing code, other than referenced national

standards contained in chapter 13 of such code, shall not be added to, deleted, or modified by rule.

ARTICLE 104  
CONSTRUCTION DOCUMENTS

§28-104.1 General. The department shall not issue a permit pursuant to this code, or a place of assembly operation certificate pursuant to this code unless and until it approves all required construction documents for such work. The department shall not issue an electrical work permit pursuant to the New York city electrical code for fire and emergency alarm systems, solar panels and wind turbines unless and until it approves all required construction documents for such work. Such construction documents shall be prepared by or under the supervision of a registered design professional as required by this code. An application for an associated work permit shall not be submitted to the department until all required construction documents have been approved.

§28-104.1.1 Construction documents subject to the New York city fire code. Except as the New York city fire code may otherwise provide, the construction documents for facilities and systems for which the fire code provides design and installation requirements, including but not limited to fire alarm systems, flammable and combustible liquids, compressed gases, explosives and other hazardous materials; flammable spraying systems and facilities; automatic water sprinkler systems for hazardous material and combustible material storage, and non-water fire extinguishing systems, shall be subject to the review and approval of the fire commissioner in accordance with the New York city fire code. Approval by the department of construction documents for new or existing buildings containing such facilities and systems shall not be construed as approval of such systems and facilities.

§28-104.2 Application for approval of construction documents. The department shall assign a job number to and docket all applications for approval of construction documents and any amendments thereto filed with it. The department shall examine the construction documents promptly after their submission. The examination shall be made under the direction of the commissioner for compliance with the provisions of

this code and other applicable laws and rules. The personnel employed for the examination of construction documents shall be qualified registered design professionals, experienced in building construction and design.

§28-104.2.1 Less than full examination of construction documents. The commissioner may, in the commissioner's discretion, establish a program whereby construction documents may be accepted with less than full examination by the department based on the professional certification of an applicant who is a registered design professional.

§28-104.2.1.1 Effect of acceptance. Except as otherwise specified in this code or in the rules of the department, for the purposes of this code, the acceptance of construction documents in accordance with such program shall have the same force and effect as the approval of construction documents after full examination by the department. Except as otherwise specified in this code or in the rules of the department, references in this code to approved construction documents or to the approval of construction documents shall also be deemed to refer to accepted construction documents or to the acceptance of construction documents, as applicable.

§28-104.2.1.2 Program requirements. The commissioner may establish qualifications and requirements for registered design professionals to participate in such program and may exclude, suspend or otherwise sanction participants for cause.

§28-104.2.1.3 Mandatory program requirements. Registered design professionals participating in such program shall be subject to sections 28-104.2.1.3 .1 through 28-104.2.1.3 .2

§28-104.2.1.3.1 Probation. A registered design professional shall not be eligible to participate in the program during any period of probation imposed as a sanction by the board of regents pursuant to section 6511 of the education law.

§28-104.2.1.3.2 Mandatory sanctions. The commissioner shall, after the opportunity for a hearing before the office of administrative trials and hearings in accordance with department rules, exclude, suspend or otherwise condition the participation of a registered design professional who (i) knowingly or negligently submits a professional certification of an application and/or construction documents that contains false information or is not in compliance with all applicable provisions of law, or (ii) submits two professionally certified applications for construction document approval within any 12-month period containing errors that result in revocation of an associated permit or that otherwise demonstrate incompetence or a lack of knowledge of applicable laws. The term “otherwise condition” shall mean limitations on such professional’s participation in the program, such as, but not limited to, audits and monitoring of the registered design professional’s applications and other submissions.

§28-104.2.1.3.2.1 Reinstatement. A registered design professional who is excluded from the program in accordance with section 28-104.2.1.3 may apply for reinstatement one year or more after such exclusion. An applicant who the commissioner finds is qualified to resume participation in the program shall be on probation for a period of not less than 6 months after reinstatement and during that time shall as a condition of such reinstatement attend one or more training or continuing education courses, approved by the department, related to compliance with the building code and related laws and rules and the zoning resolution. The professional shall submit satisfactory proof of the successful completion of such training or continuing education courses to the department.

§28-104.2.1.3.2.2 Construction. Nothing herein shall be construed to limit the commissioner’s power, consistent with state and local law, to adopt rules that include

additional grounds to limit the filing privileges of or otherwise sanction registered design professionals, after the opportunity for a hearing, who it determines, knowingly or negligently submit applications or other documents to the department that contain false information or are not in compliance with all applicable provisions of law or that otherwise demonstrate incompetence or a lack of knowledge of applicable law or standards.

§28-104.2.1.4 Database. The department shall create and maintain a database of all registered design professionals who have been excluded, suspended or otherwise sanctioned by the department. Within 7 business days of the date a sanction is imposed, the department shall post on its website and shall make available upon request, the name of the registered design professional, a description of the sanction, the initial date of the sanction, the reinstatement date, if applicable, the address of the premises for which the application associated with the sanction was submitted, and whether the sanction was imposed after a hearing or a settlement.

§28-104.2.1.5 Applicant requirement. The program shall include a condition that the applicant remain with the job until it is signed-off by the department and that if the applicant withdraws from the job before the issuance of a letter of completion or certificate of occupancy, as applicable, all work shall stop and no permit, letter of completion or certificate of occupancy shall be issued until a successor registered design professional is designated as applicant and such person submits (i) a professional certification indicating his or her concurrence with the construction documents as accepted by the department or (ii) new construction documents are approved or accepted by the department.

§28-104.2.2 Approval or acceptance to be indicated on construction documents. All construction documents, when approved, shall be stamped or endorsed “approved” under the official method of the department, followed by a notation of the date except that construction documents accepted with less

than full examination by the department shall be stamped or endorsed “accepted” instead of “approved”. One set of “approved” or “accepted” construction documents shall be retained by the department and another set shall be maintained at the job site until the work authorized by the permit is completed and signed-off by the department.

§28-104.2.3 Time limitation of application. An application for approval of construction documents shall be deemed to have been abandoned 12 months after the date of its submission, unless such application has been diligently prosecuted after rejection in whole or in part, or unless a permit shall have been issued pursuant to this code, except that the commissioner may upon application, for reasonable cause, grant extensions of time for additional 12-month periods.

§28-104.2.4 Conditions of approval. All construction documents approved by the commissioner shall be conditioned upon and subject to compliance with the requirements of this code and other applicable laws and rules in effect at the time of issuance of the associated work permit or place of assembly certificate of operation.

§28-104.2.5 Phased or partial approval. In the case of construction documents for the construction of new buildings or the alteration of buildings, the commissioner may grant partial approval of construction documents for the issuance of foundation and earthwork permits before the construction documents for the entire building or structure have been submitted. The approval of such partial applications will be subject to the submittal and approval of construction documents, filed together or separately, comprising:

1. The lot diagram showing the exact location of the lot and dimensions to the nearest corner;
2. A complete zoning analysis showing compliance of the proposed work with the zoning resolution;
3. The foundation plans, as provided for in this code; and

4. The floor and roof plans showing compliance with exit requirements, as provided for in this code.

The issuance of such foundation and earthwork permit is subject to submission of required submittal documents. The owner and the holder of such foundation and earthwork permit shall proceed at their own risk with the construction operation and without assurance that a permit for the entire structure will be granted.

§28-104.2.6 Deferred submittal. With the prior approval of the department, the applicant may defer submittal of portions of the design until a specified period of time after the issuance of a permit. The applicant shall list the deferred submittal items on the initial application for construction document approval. The deferred submittal items shall not be constructed or installed until the design and submittal documents for the item have been approved by the department.

§28-104.2.7 Time period for review. Completed construction documents complying with the provisions of this code and other applicable laws and rules shall be approved by the commissioner and written notice of approval shall be given the applicant promptly and no later than 40 calendar days after the submission of a complete application.

Exceptions:

1. On or before the fortieth day, the commissioner may, for good cause shown and upon notification to the applicant, extend such time for an additional 20 calendar days.
2. Such time period for review shall commence in accordance with article 107 for single room occupancy multiple dwellings.

§28-104.2.8 Notification of rejection. Applications failing to comply with the provisions of this code and other applicable laws and rules shall be rejected and written notice of rejection, stating the grounds of rejection, shall be given the applicant promptly and not later than the date required in

section 28-104.2.7.

§28-104.2.9 Resubmission. Whenever an application has been rejected and is thereafter revised and resubmitted to meet the stated grounds of rejection, the revised application and construction documents shall be approved if they meet the stated grounds of rejection and otherwise comply with the provisions of this code and other applicable laws and rules or shall be rejected if they fail to meet the stated grounds of rejection or otherwise fail to so comply. Written notice of approval or written notice of rejection, stating the grounds of rejection, shall be given the applicant promptly and not later than 20 calendar days after the resubmission of such documents.

§28-104.2.10 Revocation of approval. The commissioner may, on notice to the applicant, revoke the approval of construction documents for failure to comply with the provisions of this code or other applicable laws or rules; or whenever there has been any false statement or any misrepresentation as to a material fact in the submittal documents upon the basis of which such approval was issued; or whenever an approval has been issued in error and conditions are such that approval should not have been issued. Such notice shall inform the applicant of the reasons for the proposed revocation and that the applicant has the right to present to the commissioner or his or her representative within 10 business days of personal service or 15 calendar days of the posting of service by mail, information as to why the approval should not be revoked.

§28-104.2.10.1 Effect on work permit. The effect of revocation of approval of construction documents is the automatic revocation of all associated work permits that may have been issued.

§28-104.3 Amended construction documents. Subject to the time limitations set forth in this code, amendments to approved construction documents shall be submitted, reviewed and approved before the final inspection of the work or equipment is completed; and such amendments when approved shall be deemed part of the original construction documents. The department may allow minor revisions of

construction documents to be made and submitted to the department after the completion of work but prior to sign-off of the work in accordance with department rules.

§28-104.4 Place of filing. Except as otherwise provided by rule, applications for construction document approval shall be filed in the department office in the borough in which the work or equipment is located or at the discretion of the commissioner shall be submitted electronically.

§28-104.5 Fees. Filing fees shall be paid as required by article 112.

§28-104.6 Applicant. The applicant for approval of construction documents shall be the registered design professional who prepared or supervised the preparation of the construction documents on behalf of the owner.

Exception: The applicant may be other than a registered design professional for:

1. Limited plumbing alterations, limited sprinkler alterations, and limited standpipe alterations, where the applicant is licensed to perform such work pursuant to this code;
2. Demolition applications other than those specified in section 3306.5 of the New York city building code, where the applicant is the demolition contractor performing such demolition. In such cases, the commissioner may require structural plans designed by a registered design professional to address any critical structural, sequencing or site safety items;
3. Elevator applications;
4. Other categories of work consistent with rules promulgated by the commissioner.

§28-104.7 Submittal of construction documents. All construction documents submitted to the department shall contain such information and shall be in such form as shall be set forth in this section 28-104.7 and the rules of the department. Construction documents shall also conform to standards as may be prescribed in the applicable sections of the construction codes.

§28-104.7.1 Scope. Construction documents shall be complete and of sufficient clarity to indicate the

location and entire nature and extent of the work proposed, and shall show in detail that they conform to the provisions of this code and other applicable laws and rules; if there exist practical difficulties in the way of carrying out the strict letter of the code, laws or rules, the applicant shall set forth the nature of such difficulties.

§28-104.7.2 Forms. The applicant shall submit construction documents on or accompanied by forms provided by the department.

§28-104.7.3 Media. Construction documents shall be printed upon suitable material, or presented as electronic media documents as determined by the commissioner. Plans shall be drawn to suitable scale.

§28-104.7.4 Quantities. The applicant shall submit the number of copies of construction documents as the commissioner shall require.

§28-104.7.5 Citations to code sections required. In no case shall terms such as “code compliant”, “approved”, “legal” or similar terms be used in the construction documents as a substitute for specific reference to a particular code section, approval or standard in order to show compliance with code requirements or other applicable laws and rules.

§28-104.7.6 City Datum. All elevations noted in the construction documents shall be referred to and clearly identified as the United States coast and geodetic survey mean sea level datum of 1929 (national geodetic vertical datum, “NGVD”), which is hereby established as the city datum. By way of examples, tables 104.7.6.1 through 104.7.6.5 shall be used to convert borough elevations to their corresponding equivalent NGVD elevations.

**TABLE 104.7.6.1**

<b><u>BRONX</u></b> <b><u>Elevations</u></b>	<b><u>To obtain</u></b> <b><u>equivalency:</u></b>	<b><u>NGVD</u></b> <b><u>Elevations</u></b>
10.000	→ add 2.608 →	12.608

<u>7.392</u>	<u>→ add 2.608 →</u>	<u>10.000</u>
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**TABLE 104.7.6.2**

<b><u>BROOKLYN</u></b>	<b><u>To obtain</u></b>	<b><u>NGVD</u></b>
<b><u>Elevations</u></b>	<b><u>equivalency:</u></b>	<b><u>Elevations</u></b>
<u>10.000</u>	<u>→ add 2.547 →</u>	<u>12.547</u>
<u>7.453</u>	<u>→ add 2.547 →</u>	<u>10.000</u>

**TABLE 104.7.6.3**

<b><u>MANHATTAN</u></b>	<b><u>To obtain</u></b>	<b><u>NGVD</u></b>
<b><u>Elevations</u></b>	<b><u>equivalency:</u></b>	<b><u>Elevations</u></b>
<u>10.000</u>	<u>→ add 2.752 →</u>	<u>12.752</u>
<u>7.248</u>	<u>→ add 2.752 →</u>	<u>10.000</u>

**TABLE 104.7.6.4**

<b><u>QUEENS</u></b>	<b><u>To obtain</u></b>	<b><u>NGVD</u></b>
<b><u>Elevations</u></b>	<b><u>equivalency:</u></b>	<b><u>Elevations</u></b>
<u>10.000</u>	<u>→ add 2.725 →</u>	<u>12.725</u>
<u>7.275</u>	<u>→ add 2.725 →</u>	<u>10.000</u>

**TABLE 104.7.6.5**

<b><u>+STATEN</u></b>	<b><u>To obtain</u></b>	<b><u>NGVD</u></b>
<b><u>ISLAND Elevations</u></b>	<b><u>equivalency:</u></b>	<b><u>Elevations</u></b>
<u>10.000</u>	<u>→ add 3.192 →</u>	<u>13.192</u>
<u>6.808</u>	<u>→ add 3.192 →</u>	<u>10.000</u>

§28-104.7.7 Identification of special inspections. Whenever materials are subject to special inspection, as provided in this code, such materials shall be listed on the title sheet of the construction documents, or the sheet immediately following, as subject to special inspection.

§28-104.7.8 Identification of materials. Construction documents shall identify all materials proposed to be used, including identification of the test standard to which they conform, and where applicable, supporting information or test data from the manufacturer attesting to such conformance.

§28-104.7.9 Energy conservation construction code. The application shall contain all information required to demonstrate compliance with the energy conservation construction code of New York state.

§28-104.7.10 Preparer. Each plan or drawing shall contain the registration number, seal, signature (or equivalent as approved by the commissioner) and address of the registered design professional who prepared or supervised the preparation of the plans.

§28-104.7.11 Additional information. In addition to the data and information specified in this code and the rules of the department, the commissioner is authorized to require the submission of additional plans, surveys, computations, analyses, test reports, photographs, special inspection and such other data and information as may be necessary to determine compliance with this code and other applicable laws and rules.

§28-104.7.12 Waiver of certain documents. The commissioner is authorized to waive the submission of any of the required construction documents and other data if review of such documents is not necessary to ascertain compliance with this code or not required for the phase of work for which a permit is sought.

§28-104.8 Applications. All applications shall comply with sections 28-104.8.1 through 28-104.8.4.

§28-104.8.1 Applicant statements. The application shall contain the following signed and sealed statements by the applicant:

1. A statement certifying that the applicant is authorized by the owner to make the application and certifying that, to the best of the applicant's knowledge and belief, the construction documents

comply with the provisions of this code or the 1968 building code, if applicable, and other applicable laws and rules; if there exist practical difficulties in the way of carrying out the strict letter of the code, laws or rules, the applicant shall set forth the nature of such difficulties in such signed statement; and

2. A statement certifying (i) that the site of the building to be altered or demolished, or the site of the new building to be constructed, contains no occupied housing accommodations subject to rent control or rent stabilization under chapters 3 and 4 of title 26 of the administrative code, or (ii) that the owner has notified the New York state division of housing and community renewal of the owner's intention to file such plans and has complied with all requirements imposed by the regulations of such agency as preconditions for such filing; or (iii) that the owner has not notified such agency of the owner's intention to file because the nature and scope of the work proposed, pursuant to such regulations, does not require notification.
3. A professional certification.
4. A statement certifying compliance with the energy conservation construction code of New York state.

§28-104.8.2 Owner statement. The application shall contain a signed statement by the owner, cooperative owners' corporation, or condominium owners' association stating that the applicant is authorized to make the application and, if applicable, acknowledging that construction documents will be accepted with less than full examination by the department based on the professional certification of the applicant. Such statement shall list the owner's full name and address, as well as the names of the principal officers, partners or other principals if a corporation, partnership or other entity. Principal officers of a corporation shall be deemed to include the president, vice presidents, secretary and treasurer.

§28-104.8.3 Information of applicant, filing representative, and owner. The application shall set forth the full names, addresses, telephone numbers, and where available, e-mail addresses of the following persons and where any of such persons are corporations, partnerships or other business entities, the names and addresses of the principal officers, partners or other principals of such entity:

1. The applicant;
2. The filing representative;
3. The owner, cooperative owners' corporation, or condominium owners' association; and
4. Where a person other than the owner has engaged the applicant, such cooperative unit shareholder, condominium unit owner, lessee, or mortgagee.

§28-104.8.4 Tenant protection plan. Construction documents for alterations of buildings in which any dwelling unit will be occupied during construction shall include a tenant protection plan. Such plan shall contain a statement that the building contains dwelling units that will be occupied during construction and shall indicate in sufficient detail the specific units that are or may be occupied during construction, the means and methods to be employed to safeguard the safety and health of the occupants, including, where applicable, details such as temporary fire-rated assemblies, opening protectives, or dust containment procedures. The elements of the tenant protection plan may vary depending on the nature and scope of the work but at a minimum shall make detailed and specific provisions for:

1. Egress. At all times in the course of construction provision shall be made for adequate egress as required by this code and the tenant protection plan shall identify the egress that will be provided. Required egress shall not be obstructed at any time except where approved by the commissioner.

2. Fire safety. All necessary laws and controls, including those with respect to occupied dwellings, as well as additional safety measures necessitated by the construction shall be strictly observed.
3. Health requirements. Specification of methods to be used for control of dust, disposal of construction debris, pest control and maintenance of sanitary facilities, and limitation of noise to acceptable levels shall be included.
  - 3.1. There shall be included a statement of compliance with applicable provisions of law relating to lead and asbestos.
4. Compliance with housing standards. The requirements of the New York city housing maintenance code, and, where applicable, the New York state multiple dwelling law shall be strictly observed.
5. Structural safety. No structural work shall be done that may endanger the occupants.
6. Noise restrictions. Where hours of the day or the days of the week in which construction work may be undertaken are limited pursuant to the New York city noise control code, such limitations shall be stated.

ARTICLE 105  
PERMITS

§28-105.1 General. It shall be unlawful to construct, enlarge, alter, repair, move, demolish, remove or change the use or occupancy of any building or structure in the city, or to erect, install, alter, repair, or use or operate any sign or service equipment in or in connection therewith, or to erect, install, alter, repair, remove, convert or replace any gas, mechanical, plumbing or fire suppression system in or in connection therewith or to cause any such work to be done unless and until a written permit therefore shall have been issued by the commissioner in accordance with the requirements of this code, subject to such exceptions and exemptions as may be provided in section 28-105.4.

§28-105.2 Classification of work permits. For the purposes of this code, work permits shall be classified as follows:

1. New building permits: for the construction of new buildings.
2. Alteration permits: for the alteration of buildings or structures, including partial demolition in conjunction therewith.
3. Foundation and earthwork permits: for the construction or alteration of foundations, including earthwork, excavation, and fill.
4. Full demolition permits: for the full demolition of buildings or structures.
5. Plumbing permits: for the installation or alteration of plumbing and plumbing systems, including gas piping. Such permits shall include permits for limited plumbing alterations.
6. Sign permits: for the erection or alteration of signs and sign structures.
7. Service equipment permits: for the installation or alteration of service equipment, including but not limited to air conditioning and ventilating systems, boilers, elevators, escalators, moving walkways and dumbwaiters.
8. Temporary construction equipment permits: for the erection, installation and use of temporary structures to facilitate construction and/or for public or worker safety during construction, including but not limited to temporary fences, railings, catch platforms, over-the-sidewalk chutes, footbridges, sidewalk sheds, and scaffolds.
9. Fire suppression system permits: for the installation and alteration of fire suppression systems, including but not limited to sprinkler systems, standpipe systems, and non-water systems. Such permits shall include permits for limited sprinkler alterations and limited standpipe alterations.
10. Crane and derrick permits: for the use of power operated cranes and derricks during construction.

§28-105.3 Separate permits required. Separate work permits shall be required, as provided above, except

that separate permits for foundations and earthwork, or for the installation or alteration of air conditioning systems, ventilation systems, and heating systems shall not be required whenever such work is included in and forms a part of the construction documents filed for the construction of a new building or the alteration of a building or structure.

§28-105.4 Work exempt from permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code, the zoning resolution or any other law or rules enforced by the department. Such exemptions shall not relieve any owner of the obligation to comply with the requirements of or file with other city agencies.

Unless otherwise indicated, permits shall not be required for the following:

1. Emergency work, as set forth in section 28-105.4.1.
2. Minor alterations and ordinary repairs, as described in section 28-105.4.2.
3. Certain work performed by a public utility company or public utility corporation, as set forth in section 28-105.4.3.
4. Ordinary plumbing work, as set forth in section 28-105.4.4.
5. Permits for the installation of certain signs, as set forth in section 28-105.4.5.
6. Other categories of work as described in department rules, consistent with public safety.

§28-105.4.1 Emergency work. Work that would otherwise require a permit may be performed without a permit to the extent necessary to relieve an emergency condition. An application for a permit shall be submitted within 2 business days after the commencement of the emergency work and shall include written description of the emergency condition and the measures undertaken to mitigate the hazard.

Emergency work may include but shall not be limited to:

1. Erection of sidewalk sheds, fences, or other similar structures to protect the public from an unsafe condition.

2. Stabilization of unsafe structural conditions.

3. Repair of gas leaks.

4. Repair or replacement of heating or hot water equipment servicing residential occupancies during the heating season as established by the New York city housing maintenance code.

5. Replacement of parts required for the operation of a combined standpipe or sprinkler system.

§28-105.4.2 Minor alterations and ordinary repairs. A permit shall not be required for minor alterations and ordinary repairs.

§28-105.4.2.1 Definitions. The following words and terms shall, for the purposes of this section 28-105.4.2 and as used elsewhere in this code, have the meanings shown herein.

MINOR ALTERATIONS. Minor changes or modifications in a building or any part thereof, excluding additions thereto, that do not in any way affect health or the fire or structural safety of the building or the safe use and operation of the service equipment therein. Minor alterations shall not include any of the work described as “work not constituting minor alterations or ordinary repairs.”

ORDINARY REPAIRS. Replacements or renewals of existing work in a building, or of parts of the service equipment therein, with the same or equivalent materials or equipment parts, that are made in the ordinary course of maintenance and that do not in any way affect health or the fire or structural safety of the building or the safe use and operation of the service equipment therein. Ordinary repairs shall include the repair or replacement of any plumbing fixture, piping or faucets from any exposed stop valve to the inlet side of a trap. Ordinary repairs shall not include any of the work described as “work not constituting minor alterations or ordinary repairs.”

WORK NOT CONSTITUTING MINOR ALTERATIONS OR ORDINARY REPAIRS. Minor alterations or ordinary repairs shall not include:

1. The cutting away of any load bearing or required fire rated wall, floor, or roof construction, or any portion thereof.
2. The removal, cutting, or modification of any beams or structural supports;
3. The removal, change, or closing of any required exit;
4. The addition, rearrangement, relocation, removal or replacement of any parts of the building affecting loading or exit requirements, or light, heat, ventilation, or elevator requirements or accessibility requirements or any fire suppression system;
5. Additions to, alterations of, or rearrangement, relocation, replacement, repair or removal of any portion of a standpipe or sprinkler system, water distribution system, house sewer, private sewer, or drainage system, including leaders, or any soil, waste or vent pipe, or any gas distribution system;
6. Any plumbing work other than the repair or replacement of plumbing fixtures, piping or faucets from the exposed stop valve to the inlet side of a trap;
7. The alteration or repair of a sign for which a permit is required; or
8. Any other work affecting health or the fire or structural safety of the building or the safe use and operation of the service equipment therein.

§28-105.4.3 Public utility company or public utility corporation. A permit shall not be required for:

1. The installation or alteration of gas service piping or gas meter piping including meters, valves, regulators, and related equipment, when such work is to be performed and serviced and maintained by utility corporations subject to the jurisdiction of the New York state public service commission;
2. The emergency repair of gas distribution piping when such work is performed by licensed master plumbers or by utility corporations subject to the jurisdiction of the New York state

public service commission, in order to alleviate hazardous conditions, provided that a written report describing the details of such repairs shall be filed with the commissioner upon completion of the work.

§28-105.4.4 Ordinary plumbing work. The following ordinary plumbing work may be performed without a permit, provided that the licensed plumber performing such work: (i) provides a monthly report listing completed work and work in progress during the preceding month, including the block, lot and address of each job, a description of the work performed or in progress at each address, and the location in each building where the work was performed or is in progress; (ii) pays the fees for such work in accordance with this code; and (iii) submits to the department a certification that the work was performed in accordance with this code and all applicable laws and rules. Ordinary plumbing work shall include:

1. The removal of a domestic plumbing system not connected to a fire suppression system, or the removal of a portion of such system.
2. The relocation of up to two plumbing fixtures within the same room to a maximum of 10 feet (3048 mm) distant from the original location, except in health care facilities.
3. The installation, replacement or repair of a food waste grinder (food waste disposal) or back flow preventer and the replacement or repair of a sump pump.
4. The replacement of closet bends.
5. In buildings in occupancy group R2 occupied by fewer than six families or in buildings in occupancy group R3, the replacement of a gas water heater or a gas fired boiler with a capacity of 350,000 BTU or less where the existing appliance gas cock is not moved, provided that the plumber has inspected the chimney and found it to be in good operational condition.
6. The repair or replacement of any non-gas, non-fire suppression piping not longer than 10 feet

(3048 mm) inside a building, or connected piping previously repaired or replaced under this provision.

7. The repair or replacement of non-fire suppression branch piping after the riser shutoff valve, including the replacement of fixtures, limited to two bathrooms and one kitchen per building per monthly reporting period.

§28-105.4.5 Sign permits. A sign permit shall not be required where the sign is:

1. Painted directly on the exterior wall surface of a building or on the surface of a fence;
2. A wall sign of not more than six square feet (0.56 m<sup>2</sup>) in area;
3. Erected by employees of a city agency, including traffic and other similar signs;
4. A ground sign advertising the sale or rental of the premises on which it is erected, provided the sign does not exceed 12 square feet (1.1 m<sup>2</sup>) in area;
5. Temporary and erected during construction work and related thereto; or
6. Temporary for special decorative display use for holidays, public demonstrations, or the promotion of civic, welfare or charitable purposes, except that signs that utilize streets or cross streets shall be subject to the requirements of the department of transportation.
7. Temporary signs announcing the sale or rental of real property.

§28-105.5 Application for permit. All applications for permits shall be submitted on forms furnished by the department. Applications shall include all information required by this code, other applicable law or the rules of the department. The applicant shall list any portions of the design that have been approved for deferred submittal in accordance with section 28-104.2.6. The application shall set forth an inspection program for the job. An application for a permit shall be submitted no later than 12 months after the

approval of all required construction documents (other than those documents approved for deferred submittal).

§28-105.6 Fees. Applications for permits shall be accompanied by the payment of appropriate fees as provided for in article 112.

§28-105.7 Time limitation of applications. An application for a permit shall be deemed to have been abandoned 12 months after the date of its submission, unless such application has been diligently prosecuted after rejection in whole or in part, or a permit shall have been issued except that the commissioner may, for reasonable cause, and upon payment of all reinstatement fees as provided for in this code, grant extensions of time for additional 12-month periods.

§28-105.8 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other law or rule. Permits presuming to give authority to violate or cancel the provisions of this code or other law or rule shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the commissioner from requiring the correction of errors in the construction documents and other data. The commissioner is authorized to prevent any occupancy, use or work in violation of this code, the zoning resolution or other law or rule enforced by the department.

§28-105.8.1 Duration of permit. Permits may be issued for a period of up to two years unless otherwise limited by law.

§28-105.8.2 Signature of commissioner on permit. Every permit issued by the commissioner shall have his or her signature affixed thereto; but the commissioner may authorize any subordinate to affix such signature, including by the use of electronic means.

§28-105.9 Expiration. All permits issued by the commissioner shall expire by limitation and become invalid if the permitted work or use is not commenced within 12 months from the date of issuance of the

permit or, if commenced, is suspended or abandoned for a period of 12 months thereafter. All permits for work in an area of special flood hazard pursuant to Appendix G of the New York city building code shall expire if the actual start of permanent construction has not occurred within 180 days from the date on which such permit is issued. The commissioner may, however, upon good cause shown, reinstate a work permit at any time within a period of two years from the date of issuance of the original permit, provided that the work shall comply with all the requirements of this code and other applicable laws and rules in effect at the time application for reinstatement is made, and provided further that the applicant shall pay all reinstatement fees as required by article 112. The permit shall automatically expire upon the expiration of required insurance or if the applicant holds a license issued by the department upon the expiration or revocation of such license during the term of the permit.

§28-105.10 Suspension or revocation of permit. The commissioner is authorized to suspend or revoke a permit issued under the provisions of this code.

§28-105.10.1 Notice of proposed revocation. The commissioner may, on written notice to the permit holder, revoke any permit for failure to comply with the provisions of this code or other applicable laws or rules; or whenever there has been any false statement or any misrepresentation as to a material fact in the application or submittal documents upon the basis of which such approval was issued; or whenever a permit has been issued in error and conditions are such that the permit should not have been issued. Such notice shall inform the permit holder of the reasons for the proposed revocation and that the applicant has the right to present to the commissioner or his or her representative within 10 business days of delivery of the notice by hand or 15 calendar days of the posting of notice by mail, information as to why the permit should not be revoked.

§28-105.10.2 Immediate suspension in cases of imminent peril. The commissioner may immediately suspend any permit without prior notice to the permit holder when the commissioner has determined

that an imminent peril to life or property exists. The commissioner shall forthwith notify the permit holder that the permit has been suspended and the reasons therefore, that it is proposed to be revoked, and that the permit holder has the right to present to the commissioner or his or her representative within 10 business days of delivery of the notice by hand or 15 calendar days of the posting of notice by mail information as to why the permit should not be revoked.

§28-105.11 Posting of permit. The building permit or copy shall be posted in a conspicuous place at the work site, visible to the public for the duration of the work or the use and operation of the equipment, or until the expiration of the permit. No such permit shall be posted or displayed at any location other than the location of the premises or equipment for which the permit was issued.

§28-105.12 Conditions of permit. Permits shall be subject to the following conditions:

§28-105.12.1 Compliance with code. Permits shall be deemed to incorporate the provisions that the applicant, the owner, their agents, employees, and contractors shall carry out the permitted work in accordance with the provisions of this code and other applicable laws or rules, whether specified or not, except as variations have been legally permitted or authorized.

§28-105.12.2 Compliance with construction documents. All work shall conform to the approved construction documents, and any approved amendments thereto. Changes and revisions during the course of construction shall conform to the amendment requirements of this code.

§28-105.12.3 Adherence to lot diagram. All work shall be strictly located in accordance with the lot diagram approved in accordance with this code and no lot or plot shall be changed, increased or diminished in area from that shown on the approved lot diagram, unless and until a revised diagram showing such changes, accompanied by the necessary statement of the owner or applicant, shall have been submitted to and approved by the commissioner.

§28-105.12.4 Compliance with safety requirements. All work shall be conducted in accordance with and subject to the safety requirements of this code and other applicable laws or rules, including any order or requirement of the commissioner that the building or structure under construction or alteration be vacated, in whole or in part, during the progress of the work and until the issuance of a certificate of occupancy. Adjoining lots and properties shall be protected in accordance with this code.

§28-105.12.5 Compliance with noise control code required. All work shall be performed in compliance with the provisions of the New York city noise control code as set forth in chapter 2 of title 24 of the administrative code. Failure to comply with sections 24-222 and 24-223 of the administrative code shall be a violation of this code.

§28-105.12.6 Deferred submittals. Where permits are issued subject to deferred submittal of portions of the design as provided for in section 28-104.2.6, the deferred submittal items shall not be installed until the construction and submittal documents for such portions have been approved by the department and, where applicable, new or amended permits have been issued.

§28-105.12.7 Insurance. Where workers compensation, employee disability or liability insurance is required by law or department rule, the applicant for the work permit shall obtain and include proof of such insurance with the work permit application. The permit shall expire by operation of law if the insurance upon which the permit was conditioned lapses, expires or is cancelled, unless the permit holder files proof of alternate insurance before such event.

§28-105.12.8 Site safety plan. Where required by this code or by the department, applications shall include a site safety plan approved in accordance with the New York city building code. All work shall adhere to the site safety plan.

ARTICLE 106  
ASBESTOS INVESTIGATION

§28-106.1 Asbestos investigation. In addition to the requirements otherwise prescribed, all applications for construction document approval for work on buildings constructed on or before April 1, 1987 shall include asbestos certifications, reports or removal plans as may be required by this article.

Exception: Types of activities exempted pursuant to rules of the commissioner of environmental protection.

§28-106.2 Demolition and alteration of buildings constructed on or before April 1, 1987. The commissioner shall not approve or accept an application for construction document approval for the demolition or alteration of a building constructed on or before April 1, 1987, unless the applicant submits (i) a certification from an asbestos investigator that the work to be performed will not constitute an asbestos project, (ii) an asbestos inspection report completed in accordance with the provisions of section 24-146.1 of the administrative code, or (iii) proof that an asbestos removal plan has been approved by the commissioner of the New York city department of environmental protection in accordance with section 24-146.1 of the administrative code.

§28-106.3 Asbestos project. The commissioner shall not approve construction documents for work that constitutes an asbestos project and for which an asbestos inspection report is required unless the applicant at the time of application and prior to approval of the construction documents certifies on forms prescribed by the commissioner of environmental protection that the applicant is familiar with federal, state and local laws and regulations applicable to asbestos related work.

§28-106.4 Definitions. For the purposes of this article, the terms “asbestos,” “asbestos inspection report,” “asbestos investigator,” “asbestos project” and “asbestos removal plan” shall have the meanings as are ascribed in section 24-146.1 of the administrative code.

ARTICLE 107

ALTERATION OR DEMOLITION OF SINGLE ROOM OCCUPANCY  
MULTIPLE DWELLINGS

§28-107.1 General. The commissioner shall not approve construction documents for the alteration or demolition of a single room occupancy multiple dwelling except as set forth in this article.

§28-107.2 Definitions. The following words and terms shall, for the purposes of this article and elsewhere in the code, have the meanings shown herein.

CLASS A MULTIPLE DWELLING, CLASS B MULTIPLE DWELLING, FURNISHED ROOM HOUSE, ROOMING UNIT AND SINGLE ROOM OCCUPANCY. Shall have the meanings set forth in section 27-2004 of the New York city housing maintenance code.

SINGLE ROOM OCCUPANCY MULTIPLE DWELLING. A single room occupancy multiple dwelling means:

1. A “class A multiple dwelling” used in whole or part as a “rooming house” or “furnished room house,” or for “single room occupancy” pursuant to section 248 of the New York state multiple dwelling law;
2. A “class A multiple dwelling” containing “rooming units”; or
3. A “class B multiple dwelling.”

Exception: The term single room occupancy multiple dwelling shall not include:

1. College or school dormitories;
2. Clubhouses;
3. Luxury hotels, as such term is defined by the commissioner of housing preservation and development; or
4. Residences whose occupancy is restricted to an institutional use such as housing intended for use by the employees of a single company or institution;
5. City-owned multiple dwellings; or

6. Any multiple dwelling containing fewer than nine “class B” dwelling units; used for single room occupancy unless the total number of such units is more than fifty percent of the total number of dwelling units in such multiple dwelling; or

7. Any multiple dwelling that:

7.1. Is the subject of a program approved by the commissioner of housing preservation and development and related to the rehabilitation of a single room occupancy multiple dwelling or the provision of housing for persons of low or moderate income, other than a program consisting solely of real property tax abatement or tax exemption; and

7.2. Has been exempted from the provisions of this article by the commissioner of housing preservation and development.

§28-107.3 Covered categories of work. Applications for the approval of construction documents for the following categories of work are covered by this article:

1. Demolition of a single room occupancy multiple dwelling;

2. Alteration of a single room occupancy multiple dwelling to a class A multiple dwelling to be used in whole or in part for other than single room occupancy purposes;

3. Alteration of a single room occupancy multiple dwelling resulting in the removal or addition of kitchen or bathroom facilities; and

4. Such other types of alteration work to a single room occupancy multiple dwelling as shall be prescribed by rule of the commissioner of housing preservation and development, in consultation with the commissioner.

Exceptions:

1. Work solely for the purpose of either (i) making the public areas of a multiple dwelling accessible to persons with disabilities without altering the configuration of any dwelling

unit or rooming unit or (ii) making a dwelling unit or a rooming unit accessible to persons with disabilities shall not be covered by this article.

2. Repairs, demolition or any other work performed by a city agency or by a contractor pursuant to a contract with a city agency shall not be covered by this article.

§28-107.4 Required submittal documents. The commissioner shall not approve any construction documents for a single room occupancy multiple dwelling for the covered categories of work unless the applicant provides:

1. A sworn affidavit by or on behalf of all the owners, as such term is defined in section 27-2004 of the New York city housing maintenance code, of such multiple dwelling that there will be no harassment of the lawful occupants of such multiple dwelling by or on behalf of such owners during the construction period;
2. A tenant protection plan as provided for in this code; and
3. One of the following documents from the commissioner of housing preservation and development:
  - 3.1. A certification that there has been no harassment of the lawful occupants of such multiple dwelling within the 36 month period prior to submission of an application for such certification to the department of housing preservation and development, provided, however, that such certification shall except any portion of such 36 month period during which title was vested in the city; or
  - 3.2. A waiver of such certification.

§28-107.5 Filing process. After submitting an application for construction document approval to the commissioner and obtaining the identifying job number for the same, the applicant shall forward a copy of such application to the commissioner of housing preservation and development, together with an application for a certification of no harassment pursuant to section 27-2093 of the housing maintenance

code.

§28-107.6 Time period for acceptance or rejection. The time period in which the commissioner is required to approve or reject an application for construction document approval or resubmission thereof pursuant to this code shall commence from the date that the commissioner receives either the certification or waiver pursuant to this article.

§28-107.7 Denial of certification. Where the commissioner of housing preservation and development denies the certification required by this article, the commissioner shall reject the application for construction document approval.

§28-107.8 Request for stop-work or rescission. The commissioner shall be empowered to issue a stop-work notice or order with respect to an alteration or demolition permit and/or to rescind approval of construction documents at the request of the commissioner of housing preservation and development pursuant to section 27-2093 of the New York city housing maintenance code.

§28-107.9 Effect of denial or rescission. Where the commissioner rejects or rescinds the approval of construction documents pursuant to this article, no further application for the covered categories of work shall be considered by the commissioner for a period of 36 months following the date of the denial of the certification of no harassment by the commissioner of housing preservation and development or the date of the rescission of such certification of no harassment by such commissioner.

#### ARTICLE 108 PAVEMENT PLAN

§28-108.1 General. The commissioner shall not issue a permit for the erection of a new building or for alterations that will require the issuance of a new or amended certificate of occupancy without a statement that no certificate of occupancy shall be issued unless the sidewalk in front of or abutting such building, including but not limited to the intersection quadrants for corner properties, shall have been paved or repaired by the owner, at his or her own cost, in the manner, of the materials, and in accordance with the

standard specifications prescribed by the New York city department of transportation pursuant to sections 19-113 and 19-115 of the administrative code.

Exceptions:

1. Application for the erection of an accessory building appurtenant to an existing one- or two-family dwelling.
2. Where the commissioner determines that a sidewalk is not required, provided that such determination shall not affect the obligations of the owner under subdivision a of section 19-152 of the administrative code, nor relieve the owner of any such obligations, nor impair or diminish the rights of the city or its agencies to enforce such obligations.
3. Where the extent of the change in use or occupancy or the cost of the alteration does not exceed a threshold established pursuant to rule of the commissioner.

§28-108.2 Pavement plan required. Construction documents shall include a pavement plan processed and approved under guidelines established by the department. The pavement plan shall include documentation sufficient to show compliance with the standards and specifications of the New York city department of transportation pursuant to sections 19-113 and 19-115 of the administrative code.

Exception: No pavement plan shall be required with respect to an alteration application for a building where the applicant certifies that there is a sidewalk in existence in front of or abutting such building, including but not limited to the intersection quadrants for corner properties, complying with the specifications of the New York city department of transportation, and that the nature of such alteration work will neither remove such existing sidewalk nor cause damage to such existing sidewalk such that the damage could not be corrected as minor repairs prior to issuance of the certificate of occupancy.

§28-108.3 Improvement of streets. The commissioner shall insure that streets are suitably improved in accordance with the standards and specifications of the department of transportation as required by

subdivision two of section thirty-six of the general city law and shall otherwise carry out the provisions of such subdivision.

ARTICLE 109  
FIRE PROTECTION PLAN

§28-109.1 Fire protection plan required for covered buildings. New building and alteration applications for covered buildings as set forth in section 28-109.2 shall include a fire protection plan prepared by or under the supervision of a registered design professional who shall professionally certify such plan. Such plan shall be approved by the department and the fire department prior to issuance of a certificate of occupancy, a temporary certificate of occupancy or a letter of completion, as applicable.

Exception: No fire protection plan shall be required for an alteration that meets all three of the following requirements:

1. The alteration does not involve a change of use or occupancy;
2. The alteration does not exceed one million dollars; and
3. The alteration does not create an inconsistency with a previously approved fire protection plan.

§28-109.2 Covered buildings. Covered buildings include:

1. High-rise buildings as described in section 403 of the New York city building code.
2. Occupancy groups B, E, F, H, M, or S occupying two or more stories with over 20,000 gross square feet (1858 m<sup>2</sup>) of floor area per floor, or occupying two or more stories in a building with a total floor area exceeding 50,000 gross square feet (4645 m<sup>2</sup>).
3. Any building containing an assembly occupancy having an occupant load of 300 or more persons.
4. Occupancy group I or R-1 occupying two or more stories and containing sleeping accommodations for 30 or more persons.
5. Occupancy group R-2 occupancies containing 30 or more dwelling units in a building where over 10,000 gross square feet (929 m<sup>2</sup>) of floor area is occupied by occupancy group A, E, M, or I.

§28-109.3 Scope. The plan shall include the following information, where applicable:

1. A description of the building including: address; block and lot numbers; number of stories; height in feet; occupancy group; construction classification; occupancy load and department of buildings job number;
2. All floors, exits, doors, corridors, and partitions serving as fire barriers, fire partitions, fire walls; locations and ratings of required enclosures and fire areas; stairs with pressurization; roof access; exit discharges; and locations of any required frontage space; and
3. In narrative form, a description of safety systems and features, including:
  - 3.1. Communications systems.
  - 3.2. Alarm systems.
  - 3.3. Smoke and carbon monoxide detection equipment.
  - 3.4. Location of fire command station.
  - 3.5. Elevator recall.
  - 3.6. Emergency lighting and power.
  - 3.7. Standpipes.
  - 3.8. Sprinklers.
  - 3.9. Emergency power systems.
  - 3.10. Mechanical ventilation and air conditioning.
  - 3.11. Smoke control systems and equipment.
  - 3.12. Furnishings types and materials.
  - 3.13. Places of assembly.
  - 3.14. Fire department access.
  - 3.15. Photoluminescent pathway markings.

3.16. Other safety related systems, required and voluntary, to be installed.

ARTICLE 110  
SITE SAFETY PLAN

§28-110.1 Site safety plan. Where a site safety plan is required by chapter 33 of the New York city building code, such plan shall include the following:

1. Location of all construction fences around work site;
2. Location of all gates in construction fences;
3. Location of standard guardrails around excavations, when required;
4. Horizontal and vertical netting program, including details of the initial installation, schedule of horizontal jumps and vertical installations, and designated crane and derrick lifting areas where horizontal netting is omitted. The program shall include as an attachment any department approval obtained regarding required safety netting during construction or demolition operations; the revised site safety plan shall be approved;
5. Location of all sidewalk sheds, including appropriate department application numbers and department of transportation permit numbers and expiration dates;
6. Location of all temporary walkways, including appropriate department application numbers and department of transportation permit numbers and expiration dates;
7. Location of foot bridges and motor vehicle ramps, including appropriate department application numbers and department of transportation permit numbers and expiration dates;
8. Protection of side of excavation, when required, including appropriate department application numbers and department of transportation permit numbers and expiration dates;
9. Location of all street and sidewalk closing(s), including appropriate department application numbers and department of transportation permit numbers and expiration dates;

10. Approximate location of material and personnel hoist(s) and loading areas, including appropriate department application numbers and department of transportation permit numbers and expiration dates;
11. Approximate location of all crane and derrick loading areas;
12. Location of all surrounding buildings, indicating occupancy, height and type of any required roof protection;
13. Location of all standpipe system and siamese hose connections;
14. Location of all temporary elevators for fire department use when building is above 75 feet (22 860 mm) in height;
15. Location of all exterior contractors' sheds;
16. All required safety netting and scaffolding;
17. Widths of all sidewalks and roadways; all traffic information; all exits from job site;
18. A copy of the proposed site safety manager or site safety coordinator's certificate, as applicable, including the certificate for any alternate site safety manager or site safety coordinator; and
19. Such features requiring special sequencing in order to maintain safe conditions with a written description of those sequences.

§28-110.2 Phased site safety plans. Multiple layouts of the site safety features enumerated in section 28-110.1 may be submitted at any time during construction operations to show phased site safety designs consistent with the phase of anticipated work.

#### ARTICLE 111 TEMPORARY STRUCTURES AND USES

§28-111.1 General. The commissioner is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service or use, but shall not be permitted for more than 30 days. The commissioner may grant extensions for demonstrated cause.

Exception: No permit shall be required for:

1. The erection and use of temporary tents of less than 400 gross square feet (37 m2) for not more than 30 days.
2. The erection and use of temporary platforms, reviewing stands, outdoor bandstands and similar miscellaneous structures that cover an area less than 120 square feet (11.16 m2), including connecting areas or spaces with a common means of egress or entrance, for not more than 30 days.

§28-111.2 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

§28-111.3 Termination of approval. The commissioner is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

§28-111.4 Application processing. Application for such structures and uses shall be submitted to the department no later than 15 business days prior to the construction of the temporary structure or the commencement of the temporary use.

§28-111.5 Fees. Applications for such permits shall be accompanied by the applicable fees in accordance with article 112. Fees for subsequent requests for renewals shall be paid upon approval of such requests.

## ARTICLE 112 FEES

§28-112.1 Payment of fees. A permit, inspection, or other service or privilege as regulated in this code shall not be valid until the fees prescribed herein or in rules have been paid, nor shall a renewal of a permit or other service or privilege or an amendment to a permit be released until the fee has been paid. In addition, an approval required to be reissued due to a change in product name, company name and/or address, contact information or principals, shall not be reissued until a reissuance fee, if any, has been paid.

The department shall adopt such rules and shall prescribe such forms as may be necessary to carry out the provisions of this article.

Exceptions:

1. A permit, inspection or other service or privilege as regulated in this code shall not be subject to this provision if the owner of the building or property affected is a corporation or association organized and operated exclusively for religious, charitable or educational purposes, or for one or more such purposes, no part of the earnings of which inures to the benefit of any private shareholder or individual, and provided that the property affected is to be used exclusively by such corporation or association for one or more of such purposes.
2. A permit, inspection or other service or privilege as regulated in this code shall not be subject to this provision if the work proposed is emergency work performed by a city agency or by a contractor pursuant to a contract with a city agency.

§28-112.2 Schedule of permit fees. Permits for new buildings, structures, mechanical, and plumbing systems or alterations requiring a permit shall be accompanied by a fee for each permit in accordance with the fee schedule of Table 28-112.2. Fifty percent of the total fee for the work permit, but not less than one hundred dollars, or the total fee for the work permit where such fee is less than one hundred dollars, shall be paid and shall accompany the first application for the approval of construction documents; and the whole or remainder of the total fee shall be paid before the work permit may be issued. The commissioner may require reasonable substantiation of any statement or other form that may be required by the department.

**Table 28-112.2**

<b><u>Permit Type</u></b>	<b><u>Initial Fee</u></b>	<b><u>Renewal Fee</u></b>	<b><u>Comments</u></b>
<b><u>New Buildings</u></b>			

<p><u>New building work permit: One-, two- or three-family dwelling</u></p> <ul style="list-style-type: none"> <li>□ <u>Subsequent applications related to initial new building work permit application, including but not limited to elevators, filed prior to the first temporary certificate of occupancy (TCO), or the final certificate of occupancy if no TCO is issued</u></li> <li>□ <u>New building work permit: Garage for not more than three cars when accessory to and filed with plans for one-, two- or three-family dwelling to which it is accessory on the same lot</u></li> </ul>	<p><u>\$0.12 for each square foot, or fraction thereof, of the total floor area of the new building, but not less than \$100 for each structure</u></p> <p><u>\$100. Each</u></p> <p><u>\$100.</u></p>	<p><u>\$100.</u></p> <p><u>\$100. Each</u></p> <p><u>\$100.</u></p>	
<p><u>New building work permit: All other new buildings</u></p> <ul style="list-style-type: none"> <li>□ <u>Subsequent applications related to initial new building work permit application, including but not limited to elevators, filed prior to the first temporary certificate of occupancy (TCO), or the final certificate of occupancy if no TCO is issued</u></li> </ul>	<p><u>\$0.26 for each square foot, or fraction thereof, of the total floor area of the new building, but not less than \$100 for each structure annually.</u></p> <p><u>\$100 each annually.</u></p>	<p><u>\$100 annually.</u></p> <p><u>\$100 annually.</u></p>	
<b><u>Alterations</u></b>			
<p><u>Alteration work permit:</u></p>	<p><u>\$100 for the first five thousand dollars, or fraction thereof,</u></p>	<p><u>\$100 annually</u></p>	

<ul style="list-style-type: none"> <li>□ <u>One-, two- or three-family dwelling.</u></li> <li>□ <u>Permit to install and/or alter plumbing, plumbing system and/or fire suppression piping system in existing building: One-, two- or three-family dwelling.</u></li> </ul>	<p><u>of the cost of alteration, excluding the cost for the installation or alteration of any plumbing or plumbing system or fire suppression piping system; not less than \$100 annually for subsequent years; plus \$5.15 for each one thousand dollars, or fraction thereof, of cost of alterations in excess of five thousand dollars.</u></p>	<p><u>y.</u></p>	
<p><u>Alteration work permit:</u></p> <ul style="list-style-type: none"> <li>□ <u>Alterations in all other buildings and structures, including but not limited to aerial towers and masts, tank structures, fire escapes, etc., which are unoccupied and not easily valued by area;</u></li> <li>□ <u>Applications related to new building work permit application, filed after the first temporary certificate of occupancy (TCO), or the final certificate of occupancy if no TCO is issued.</u></li> <li>□ <u>Installation or alteration of elevators, escalators, amusement devices and other devices regulated under this code, except those filed under a new building application.</u></li> <li>□ <u>Permit to install and/or alter plumbing, plumbing system and/or fire suppression piping system in existing building: All buildings other than one-,</u></li> </ul>	<p><u>\$100 for the first three thousand dollars, or fraction thereof, of the cost of alteration not including the cost of the installation or alteration of any plumbing or plumbing system or fire suppression piping system; not less than \$100 annually for subsequent years; plus \$20 for each one thousand dollars, or fraction thereof, of the next two thousand dollars of such cost; plus \$10.30 for each one thousand dollars, or fraction thereof, of the alteration cost in excess of five thousand dollars.</u></p>	<p><u>\$100 annually.</u></p>	

<u>two- or three-family dwelling.</u>			
<u>Permit to install or alter service equipment except plumbing and fire suppression piping service equipment.</u>	<u>Fee calculated as for respective building alteration.</u>	<u>\$100.</u>	
<u>Permit to install, alter or replace oil-burning equipment:</u>			
<input type="checkbox"/> <u>Where the storage tank exceeds two hundred seventy-five gallon capacity; or where the storage tank is less than two hundred seventy-five gallons and is to be buried, or is to be installed in a multiple dwelling or a place of assembly or in a building along the line of a subway, or is to deliver fuel oil to a burner installed above the lowest floor of a building with a primary Business Group B. occupancy.</u>	<u>\$100.</u>	<u>\$100.</u>	
<input type="checkbox"/> <u>In all other conditions.</u>	<u>\$50.</u>	<u>\$100.</u>	
<b><i>Other</i></b>			
<u>Permit for foundation, earthwork or open space without roof, whether enclosed or unenclosed, on sites such as parking lots, gasoline or oil-selling stations, storage yards, sales or exhibition or show spaces used for generally similar purposes.</u>	<u>\$10 for each two thousand square feet of area or fraction thereof, but not less than \$100.</u>	<u>\$100.</u>	
<u>Permit for golf driving range.</u>	<u>\$7.50 for each twenty thousand square feet of area or fraction thereof, but not less than \$100.</u>	<u>\$100.</u>	
<u>Accessory building to golf driving range, not to exceed one hundred forty-four square</u>	<u>\$100.</u>	<u>\$100</u>	

<u>feet.</u>			
<u>Permit for demolition and removal.</u>	<u>Multiply street frontage in feet or fraction thereof x number of stories of the building x \$2.60, but not less than \$260. For corner lot, use the longer street frontage.</u>	<u>\$100.</u>	
<u>Asbestos permits:</u> <ul style="list-style-type: none"> <li>□ <u>Permit for the performance of an asbestos project for which the filing with the department of an asbestos inspection report, or proof of approval by the commissioner of environmental protection of an asbestos removal plan is required.</u></li> <li>□ <u>Application for plan approval or permit for work for which an asbestos investigator is required to submit an asbestos inspection report certifying that the work to be performed will not constitute an asbestos project.</u></li> </ul>			<u>Specific fee to be established by the commissioner of environmental protection.</u>  <u>Terms “asbestos project,” “asbestos inspection report” and “asbestos removal plan” shall have the meanings ascribed in Section 24-146.1 of the administrative code.</u>
<u>Signs</u>			
<u>Permit to erect, install or alter sign: Ground sign.</u>	<u>Basic fee calculated as for building alteration; plus \$5 for each one hundred square feet of surface area, or fraction thereof; but not less than \$35.</u>	<u>\$100.</u>	<u>Each face of any sign, when fronting on different streets, shall be treated as a separate sign.</u>
<u>Permit to erect, install or alter sign: Roof sign having a tight, closed or solid surface.</u>	<u>Basic fee calculated as for building alteration; plus \$15 for each one hundred square feet of surface area, or fraction thereof; but not less than \$70.</u>	<u>\$100.</u>	<u>Each face of any sign, when fronting on different streets, shall be treated as a separate sign.</u>
<u>Permit to erect, install or alter</u>	<u>Basic fee calculated as for</u>	<u>\$100.</u>	<u>Each face of any sign, when</u>

<u>sign: Roof sign without a tight, closed or solid surface, extending to a height of not more than thirty-one feet above roof level.</u>	<u>building alteration; plus \$15 for each one hundred square feet of surface area, or fraction thereof, but not less than \$100.</u>		<u>fronting on different streets, shall be treated as a separate sign.</u>
<u>Permit to erect, install or alter sign: Roof sign without a tight, closed or solid surface, extending to a height over thirty-one feet above roof level.</u>	<u>Basic fee calculated as for building alteration; plus \$25 for each one hundred square feet of area, or fraction thereof, but not less than \$135.</u>	<u>\$100.</u>	<u>Each face of any sign, when fronting on different streets, shall be treated as a separate sign.</u>
<u>Permit to erect, install or alter sign: Illuminated sign projecting beyond street line having thirty square feet or less on one side.</u>	<u>Basic fee calculated as for building alteration.</u>	<u>\$100.</u>	<u>Illuminated sign is subject to annual use fee: \$45.</u>
<u>Permit to erect, install or alter sign: Illuminated sign projecting beyond street line having more than thirty square feet but no more than fifty square feet on one side.</u>	<u>Basic fee calculated as for building alteration.</u>	<u>\$100.</u>	<u>Illuminated sign is subject to annual use fee: \$70.</u>
<u>Permit to erect, install or alter sign: Illuminated sign projecting beyond street line and having more than fifty square feet on one side</u>	<u>Basic fee calculated as for building alteration.</u>	<u>\$100.</u>	<u>Illuminated sign is subject to annual use fee: \$0.75 for each square foot or part thereof annually, but not less than \$100.</u>
<u>Maintenance permit for outdoor signs.</u>	<u>As provided by rule.</u>		
<b><u>Temporary Structures</u></b>			
<u>Permit for temporary shed, fence, railing, footbridge, catch platform, building sidewalk shanty, over-the-sidewalk chute.</u>	<u>\$130 for each permit.</u>	<u>\$100.</u>	
<u>Sidewalk shed.</u>	<u>\$130 for the first twenty-five feet or fraction thereof in the length of the shed; plus \$10 for each additional twenty-five feet or fraction thereof.</u>	<u>\$100.</u>	
<u>Permit for temporary structure other than those listed above, including but not limited to tents, grandstands, stages.</u>	<u>\$100 for the first one thousand square feet or fraction thereof; plus \$0.10 for each square foot</u>	<u>\$100.</u>	

	<u>or fraction thereof in excess of one thousand square feet.</u>		
<b><u>Reinstatement of Applications/Permits</u></b>			
<u>Application/permit reinstatement fees:</u>  <input type="checkbox"/> <u>Prior to first permit.</u>  <input type="checkbox"/> <u>Following first permit issuance but prior to commencing work.</u>  <input type="checkbox"/> <u>Following first permit, with work partially complete.</u>	<u>Full fee at the rate in effect on the date of reinstatement.</u>  <u>Full fee at the rate in effect on the date of reinstatement.</u>  <u>Based upon the full fee at the rate in effect on the date of reinstatement, the percentage of the fee equal to the percentage of work remaining as determined by the department inspector, plus the renewal fee.</u>		

§28-112.3 Building permit valuations. Where applicable, the applicant for a permit shall provide an estimated job construction cost at time of application. Cost estimates shall include total value of work, including materials and labor, for which the permit is being issued, such as installation or alteration of building, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the department, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the department. Final building permit valuation shall be set by the department.

§28-112.4 Work commencing before permit issuance. Any person who commences any work before obtaining the necessary permits shall be subject to a penalty as specified in this code that shall be in addition to the required permit fees.

§28-112.5 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work

done in connection or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

§28-112.6 Refunds and rebates. Upon application to the comptroller of the city of New York, and upon verification of claim by the commissioner, refunds or rebates of partial or full fees shall be provided as set forth in sections 28-112.6.1 through 28-112.6.3.

§28-112.6.1 Withdrawal of work permit applications. In the event that an owner withdraws an application, the owner may obtain a refund of all or a portion of the fee paid as follows:

1. If an application for construction document approval is withdrawn prior to the commencement of examination of the application all but forty dollars of the deposit fee paid shall be refunded.
2. If an application for construction document approval is withdrawn during the progress of examination of the application, the comptroller shall retain a percentage of the deposit fee paid, which the department shall certify is the equivalent percentage of the examination completed, but not less than one hundred dollars. The remainder of the deposit fee shall be refunded to the owner.
3. If an application for construction document approval is withdrawn after examination of construction documents and/or construction document approval and before issuance of permit, there shall be refunded by the comptroller 50 percent of the total computed fee for the permit, except that not less than one hundred dollars shall be retained by the comptroller.

§28-112.6.2 Withdrawal of cranes and derricks applications. If the applicant withdraws his or her application for a certificate of approval for a power-operated crane, derrick or cableway, such applicant may obtain a refund of a portion of the fees as follows:

1. If the application is withdrawn prior to the commencement of examination by the department, the entire fee shall be refunded except one hundred dollars.

2. If the application is withdrawn after the examination has commenced, the comptroller shall retain a percentage of the fee paid, which the department shall certify is the equivalent percentage of the examination performed, but not less than one hundred dollars. The remainder of the fee shall be refunded to the applicant.

3. If the application is withdrawn after the department has performed its examination, whether or not the application has been approved no part of the fee shall be returned to the applicant.

§28-112.6.3 Incentive rebates. With respect to the rebates under this section 28-112.6, the commissioner may, at his or her discretion, issue a rebate of application fees as follows and as established by rule.

§28-112.6.3.1 Renewable energy rebates. Owners who demonstrate the production on a zoning lot of five percent or more of the annual energy consumption on the zoning lot through renewable energy sources may receive a fee rebate as established by rule.

§28-112.6.3.2 Rebate for energy use reduction. Owners who demonstrate a reduction in energy use from that allowed at the time of permit by the New York state energy conservation construction code as a result of the permitted work may receive a fee rebate as established by rule.

§28-112.6.3.3 Rebate for water conservation systems. Owners who demonstrate conservation of water taken from the city supply by providing evidence of achieving the water-recycling discount authorized by the New York city water board may receive a fee rebate as established by rule.

§28-112.6.3.4 Rebate for redevelopment, remediation and reuse of contaminated properties known as brownfields. Owners who demonstrate that their site was contaminated and has been certified as remediated by the United States environmental protection agency or the New York state department of environmental conservation, or has received a notice of satisfaction from the New York city department of environmental protection, may receive a fee rebate as established by rule.

§28-112.6.3.5 Rebate for recycling construction and demolition waste. Owners who demonstrate the recycling of construction and demolition waste may receive a fee rebate as established by rule.

§28-112.6.3.6 Rebate for bicycle storage facilities. Except for R-3 occupancy, owners who demonstrate that they have provided secured indoor bicycling facilities accessible to all building occupants may be rebated their fees as set out in rule. Such facilities shall be identified on approved plans and shall be noted on the certificate of occupancy with a statement that the bicycling accommodations dedicated to such facilities were provided in accordance with this section.

§28-112.6.3.7 Rebate for LEED or other environmental design certification. Owners who demonstrate certification of their project, which was signed off following the effective date of this code, by the United States Green Building Council based upon the Council’s Leadership in Energy and Environmental Design (LEED) rating system or as otherwise provided by rule, may be rebated their fees as set out in rule.

§28-112.6.3.8 Other rebates. The commissioner is authorized to promulgate rules to rebate fees following sign-off based upon the installation of energy-conserving systems.

§28-112.7 Inspection fees. Aside from the inspection fees covered under permit fees above, the following inspection fees shall be paid according to requirements of this code and as promulgated in rules.

§28-112.7.1 Fees for the testing, approval, inspection and use of power-operated cranes, derricks and cableways. The owner of any crane or derrick shall renew the certificate of operation each year.

**Table 28-112.7.1**

<b><u>Equipment Type</u></b>	<b><u>Initial Fee</u></b>	<b><u>Renewa l Fee for Certific ate of Operati on</u></b>	<b><u>Comments</u></b>

<p><u>Prototype approval of one configuration of a mobile crane. One configuration shall be comprised of the crane with a main boom, one fixed jib and one set of counterweights.</u></p> <p><u>Amendment to a configuration.</u></p>	<p><u>\$2500 when testing has been monitored and certified by a competent individual or group, other than the manufacturer, acceptable to the commissioner;</u>  <u>\$4000 when, in lieu of monitoring and certification of tests, the commissioner shall require design calculations for such items as the commissioner deems necessary to supplement the tests.</u></p> <p><u>One-half the original configuration fee.</u></p>		<p><u>Additional configurations shall be subject to the same fees as the original configuration.</u></p>
<p><u>Prototype approval of a mobile crane with a hydraulic boom.</u></p>	<p><u>\$4000.</u></p>		
<p><u>Certificate of approval for mobile crane with a boom less than two hundred feet in length; fee also includes initial certificate of operation.</u></p>	<p><u>\$500.</u></p>	<p><u>\$250 annually</u> -</p>	<p><u>The boom length as herein specified shall include the jibs and any other extensions to the boom.</u></p>
<p><u>Certificate of approval for mobile crane with a boom two hundred feet or more in length, but less than three hundred feet in length; fee also includes initial certificate of operation.</u></p>	<p><u>\$1000.</u></p>	<p><u>\$250 annually</u> -</p>	<p><u>The boom length as herein specified shall include the jibs and any other extensions to the boom.</u></p>
<p><u>Certificate of approval for mobile crane with a boom three hundred feet or more in length but less than four hundred feet in length; fee also includes initial certificate of operation.</u></p>	<p><u>\$2000.</u></p>	<p><u>\$400 annually</u> -</p>	<p><u>The boom length as herein specified shall include the jibs and any other extensions to the boom.</u></p>
<p><u>Certificate of approval for</u></p>	<p><u>\$3000.</u></p>	<p><u>\$400</u></p>	<p><u>The boom length as herein</u></p>

<u>mobile crane with a boom four hundred feet or more in length; fee also includes initial certificate of operation.</u>		<u>annually</u> -	<u>specified shall include the jibs and any other extensions to the boom.</u>
<u>Certificate of approval for climber and tower cranes and derricks, regardless of length; fee also includes initial certificate of operation.</u>	<u>\$3000.</u>	<u>\$400 annually</u> -	
<u>Certificate of approval for all other cranes; fee also includes initial certificate of operation.</u>	<u>\$1000.</u>	<u>\$250 annually</u> -	
<u>Certificate of approval required for a mobile crane with a boom not exceeding fifty feet in length with a maximum rated capacity not exceeding three tons; fee also includes initial certificate of operation.</u>	<u>\$300.</u>	<u>\$200 annually</u> -	<u>The boom length as herein specified shall include the jibs and any other extensions to the boom.</u>
<u>New certificate of approval, when the boom or extension thereof is replaced or altered.</u>	<u>The fee shall be the full fee required for testing a new crane or derrick with a boom or extension of the same size and design as the replacement boom or extension thereof.</u>		
<u>Review only of engineering calculations for mobile crane with a boom exceeding 250 feet to be erected by a licensed master or special rigger, for which a certificate of on-site inspection is not required under this code or rules of the department.</u>	<u>\$100.</u>		
<u>On-site inspection of up to three models of mobile cranes with boom, including jibs and other extensions to the boom two hundred fifty feet or more in length, or derrick.</u>	<u>\$250 on normal working days; \$750 on other than normal working days, upon written request of the applicant.</u>		
<u>All other on-site inspections of cranes.</u>	<u>\$150.</u>		
<u>Amendment to an application for certificate of on-site inspection.</u>	<u>\$100.</u>		

<u>Application for waiver of on-site inspection of mobile crane or derrick.</u>	<u>\$100.</u>		
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§28-112.7.2 Periodic inspection fees.

**Table 28-112.7.2**

<b><u>Inspection Type</u></b>	<b><u>Initial Fee</u></b>	<b><u>Renewal Fee</u></b>	<b><u>Comments</u></b>
<u>Filing fee for report of critical examination of exterior walls and appurtenances thereof.</u>	<u>As provided by rule.</u>		
<input type="checkbox"/> <u>Filing fee for periodic boiler inspection report.</u>	<u>\$30 for each boiler.</u>		
<u>Equipment inspection fee:</u> <input type="checkbox"/> <u>High-pressure boiler periodically inspected as provided by section 28-116.4.</u> <input type="checkbox"/> <u>Reinspection fee following a violation.</u>	<u>\$65 for each inspection, for each boiler.</u>  <u>As provided by rule.</u>		
<input type="checkbox"/> <u>Filing fee for report of periodic inspection of elevator and other devices.</u>	<u>\$30 for each device.</u>		
<input type="checkbox"/> <u>Equipment inspection fee: Each elevator or other device regulated by this code.</u>	<u>\$65 for each inspection, for each device.</u>		

§28-112.7.3 Other inspection fees.

**Table 28-112.7.3**

<b><u>Inspection Type</u></b>	<b><u>Initial Fee</u></b>	<b><u>Renewal Fee</u></b>	<b><u>Comments</u></b>
<u>Curb cut, private dwelling.</u>	<u>\$3 for each linear foot including splay.</u>		
<u>Curb cut, other.</u>	<u>\$6 for each linear foot including splay.</u>		

<u>Marquee inspection.</u>	<u>\$15 annually for each one hundred square feet or fraction thereof.</u>		
<u>Place of assembly inspection, including following a violation.</u>	<u>\$100 each inspection, each place of assembly.</u>		
<u>Search inspection of a building with a frontage of twenty-five feet or less and a depth of one hundred feet or less.</u>  <input type="checkbox"/> <u>Additional fee for building with frontage exceeding twenty-five feet.</u>  <input type="checkbox"/> <u>Additional fee for building with depth exceeding one hundred feet.</u>	<u>\$20 for each floor for the first three floors;</u> <u>\$10 for each additional floor;</u> <u>\$100 minimum total.</u>  <u>Increase above fee by 40% for each floor for each additional twenty-five feet or fraction thereof.</u>  <u>Increase above fee by 25% for each floor for each additional twenty-five feet or fraction thereof.</u>		<u>A basement or a cellar shall count as a floor.</u>  <u>Where both a basement and a cellar exist, the cellar shall not count as a floor in computing fee.</u>

§28-112.8 Special fees. The department shall be entitled to charge the following special fees:

**Table 28-112.8**

<b><u>Item Description</u></b>	<b><u>Fee</u></b>	<b><u>Comments</u></b>
<u>Acknowledgement.</u>	<u>As provided by rule.</u>	
<u>Accelerated plan review.</u>	<u>In accordance with rules promulgated by the commissioner.</u>	
<u>Accelerated inspection.</u>	<u>As provided by rule.</u>	
<u>Certificate of occupancy.</u>	<u>As provided by rule.</u>	
<u>Accelerated certificate of occupancy request.</u>	<u>As provided by rule.</u>	
<u>Application for temporary certificate of occupancy.</u>	<u>\$100.</u>	<u>\$100 renewal.</u>
<u>Place of assembly certificate of operation.</u>	<u>\$100.</u>	<u>\$100 renewal.</u>
<u>Reinspection made necessary by a failure to correct a condition or respond to a request to correct that results in issuance of a violation or other order</u>	<u>As provided by rule</u>	
<u>Temporary place of assembly</u>	<u>\$100.</u>	<u>\$100 renewal.</u>

<u>certificate of operation.</u>		
<u>Temporary use letter for temporary structure.</u>	<u>\$100.</u>	
<u>Temporary use letter for place of assembly.</u>	<u>\$250.</u>	<u>Application shall be submitted at least ten work days prior to the event; late fees shall be imposed at \$100 for each day following required submission date that the application is received by the department.</u>
<u>Ordinary plumbing work.</u>	<u>\$100 for each report.</u>	
<u>Limited plumbing alteration.</u>	<u>Same as for alteration.</u>	
<u>Limited sprinkler and/or standpipe alteration.</u>	<u>Same as for alteration.</u>	
<b><u>Approval or acceptance of materials, assemblies and equipment</u></b>		
<u>Application for approval of materials</u>	<u>\$600.</u>	
<u>Application for amendment of prior approval of materials</u>	<u>\$500.</u>	
<u>Application for change of identification (change of ownership, corporate name or name of product) of prior approval.</u>	<u>\$350.</u>	
<u>Application for approval of materials Evaluated by an approved testing agency.</u>	<u>\$200.</u>	
<b><u>Other fees</u></b>		
<u>Certificate of pending violation: Multiple and private dwellings.</u>	<u>As provided by rule.</u>	
<u>Certificate of pending violation: All other buildings.</u>	<u>As provided by rule.</u>	
<u>Certified copy of license.</u>	<u>As provided by rule.</u>	
<u>Microfilming of applications for new buildings and alterations and associated documentation for certificates of occupancy, temporary certificates of occupancy and/or letters of completion, as required by rule of the commissioner.</u>	<u>As provided by rule.</u>	
<u>Preparing only or preparing and certifying</u>	<u>As provided by rule.</u>	

<u>a copy of a record or document filed in the department, other than a plan, certificate of occupancy or certificate of pending violation.</u>		
<u>Half-size print from microfilm of a plan thirty-six by forty-eight inches or less.</u> <u>Additional copies.</u>	<u>As provided by rule.</u>	
<u>Half-size print from microfilm of a plan exceeding thirty-six by forty-eight inches.</u> <u>Additional copies.</u>	<u>As provided by rule.</u>	

§28-112.9 Lien on premises for unpaid fee or other charge. Any unpaid fee or charge for an inspection, reinspection, examination or service performed by the department or other unpaid amount owed to the department, and all permits issued by the department, pursuant to law shall constitute a lien upon the land and buildings upon or in respect to which such inspection, reinspection, examination or service was performed or permit issued, as hereinafter provided.

§28-112.9.1 Filing of fees. The department shall maintain a record of all unpaid fees and other charges. Such records shall be kept on a building by building basis and shall be accessible to the public during business hours. An entry of an unpaid amount on the records of the department shall constitute notice to all parties.

§28-112.9.2 Lien. All such unpaid amounts shall constitute a lien upon the land and building upon, or in respect to which, such inspection, reinspection, examination or service was performed or permit issued when the amount thereof shall have been definitely computed as a statement of account by the department and the department shall file such statement with the department of finance for entry in the records of such department against the premises. Such lien shall have a priority over all other liens and encumbrances except for the lien of taxes and assessments. However, no lien created pursuant to this section 28-112.9 shall be enforced against a subsequent purchaser in good faith or mortgagee in good

faith unless the requirements of section 28-112.9.1 are satisfied.

§28-112.9.3 Notice. A notice, stating the amount due and the nature of the charge, shall be mailed by the department of finance, to the last known address of the person whose name appears on the records in the office of the department of finance as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to the premises, addressed to either the owner or the agent.

§28-112.9.4 Interest. If such charge is not paid within 30 days from the date of entry, it shall be the duty of the department of finance to receive interest thereon at the rate of 15 percent per annum, to be calculated to the date of payment from the date of entry.

§28-112.9.5 Tax lien. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such lien shall be deemed a tax lien within the meaning of sections 11-319 and 11-401 of the administrative code and may be sold, enforced or foreclosed in the manner provided in chapter three or four of title eleven of such code or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law.

§28-112.9.6 Reference. The notice mailed by the department of finance pursuant to this section 28-112.9 shall have stamped or printed thereon a reference to this section 28-112.9.

§28-112.9.7 Validity not subject to challenge in enforcement proceeding. In any proceedings to enforce or discharge a lien created pursuant to this section 28-112.9 the validity of the lien shall not be subject to challenge based on:

1. The lawfulness of the inspection, reinspection, examination, service or permit; or
2. The propriety and accuracy of the fee for which a lien is claimed, except as provided in this section 28-112.9.

§28-112.9.8 Standing to challenge. No such challenge may be made except by (i) the owner of the

property, or (ii) a mortgagee or lienor whose mortgage or lien would, but for the provisions of this section 28-112.9, have priority over the department's lien.

ARTICLE 113  
MATERIALS

§28-113.1 General. Materials shall be used, tested and approved for use in accordance with the specific provisions of this code and department rules, except that the commissioner shall have the power to limit or prohibit the use of any material to protect public safety. Materials shall be identified or described on construction documents and other submittal documents.

§28-113.2 Use of materials. Except as set forth in sections 28-113.2.1 through 113.2.6 materials specifically prescribed by this code or department rules may be used as prescribed without the prior approval of the commissioner.

§28-113.2.1 Approved material. Whenever this code or the rules of the department requires the use of an approved material, such material shall not be used without the prior approval of the commissioner for such use and may be used only to the extent set forth in such approval.

§28-113.2.2 Alternative materials. Except as otherwise specifically limited by this code, the provisions of this code are not intended to prevent the installation of any material or to prohibit any alternative engineered design or method of construction not specifically prescribed by this code, provided that the use of such alternative material has been previously approved by the commissioner and may be used only to the extent set forth in such approval. The use of an alternative material, design, method of construction or equipment shall be approved where the commissioner finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

§28-113.2.3 Listed or labeled. Whenever this code or the rules of the department requires that

material used be listed or labeled to a standard, material that is so listed or labeled may be used in accordance with such list or label without the prior approval of the commissioner. However, the commissioner reserves the right to require that information be submitted with regard to the testing and evaluation of any material so listed or labeled including but not limited to inspection certificates, test or evaluation reports, analysis, computations or other information used to determine that the material so listed or labeled complies with the applicable standard.

§28-113.2.4 Material not listed or labeled. Whenever this code or the rules of the department requires that material be listed or labeled to a standard and material proposed to be used is not so listed or labeled, the use of such material shall be subject to prior approval by the commissioner and such material shall be used only to the extent set forth in such approval.

§28-113.2.5 Reuse. The use of used material that meets the requirements of this code for new material is permitted unless otherwise provided in this code. Used equipment and devices shall not be reused without the prior approval of the commissioner and may be used only to the extent set forth in such approval.

§28-113.2.6 Previously issued approvals. Materials that were previously approved by the board of standards and appeals or by the department before the effective date of this code may continue to be used, but only to the extent set forth in such approval, and only if such approval is not specifically amended or repealed by the commissioner.

§28-113.3 Approval procedure. Approval of materials shall be in accordance with the rules of the department. The cost offsets, reports and investigations required under these provisions shall be paid by the applicant.

§28-113.3.1 Performance. Specific information consisting of test reports conducted by an approved testing agency in accordance with standards referenced in the construction codes or other such

information as necessary, shall be provided for the commissioner to determine whether the material will perform for the use intended.

§28-113.3.2 Research and investigation. Sufficient technical data shall be submitted to the commissioner to substantiate the proposed use of any material. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the commissioner shall approve the use of the material subject to the requirements of this code.

§28-113.3.3 Retesting of materials. All materials tested and accepted for use shall be subject to periodic retesting as determined by the commissioner; and any material that upon retesting is found not to comply with the code requirements or the requirements set forth in the approval of such material shall cease to be acceptable for the use intended. During the period for such retesting, the commissioner may require the use of such material to be restricted or discontinued if necessary to secure safety.

§28-113.3.4 New materials. New materials not provided for in this code, and any material of questioned suitability proposed for use in the construction of a building or structure, shall be subjected to the tests prescribed in this code or in the rules of the department to determine character, quality and limitations of use.

§28-113.3.5 Research reports. Supporting data, where necessary to assist in the approval of materials not specifically provided for in this code, shall consist of valid research reports from approved sources.

§28-113.3.6 Conflicting test results. Whenever there is evidence of conflicting results in the test of any material, the commissioner shall determine the acceptability of the material and/or the acceptable rating for such material.

§28-113.3.7 Amendment and repeal. The commissioner shall have the power to amend or repeal the

approval of any material, including materials previously approved by the board of standards and appeals.

§28-113.3.8 Maintenance of records of approved material. For any material that has been approved, a record of such approval, including the conditions and limitations of the approval, shall be kept on file in the department and shall be open to public inspection at appropriate times.

§28-113.3.9 List of approved testing agencies and approved materials. A current list of all approved testing agencies and a current list of all materials specifically approved by the commissioner or previously approved by the board of standards and appeals shall be maintained by the department and published in written form.

§28-113.4 Labeling. Materials required to be labeled shall be labeled in accordance with the procedures set forth in this code or the recognized referenced standards.

§28-113.4.1 Testing. An approved agency shall test a representative sample of the material being labeled to the relevant standard or standards. The approved agency shall maintain a record of the tests performed. The record shall provide sufficient detail to verify compliance with the test standard.

§28-113.4.2 Inspection and identification. The approved agency shall at regular intervals perform an inspection, which shall be in-plant if necessary, of the material that is to be labeled. The inspection shall verify that the labeled material is representative of the material tested.

§28-113.4.3 Label information. The label shall contain the manufacturer's or distributor's identification, model number, serial number or definitive information describing the material's performance characteristics and the approved agency's identification.

§28-113.4.4 Shipment and delivery certification of materials listed, labeled or approved. In the case of the shipment or delivery of material listed or labeled to a standard, such material shall be appropriately labeled or accompanied by the inspection certificate of an approved agency that the

material is the same as that which was tested and evaluated by such agency. In the case of the shipment or delivery of material previously approved by the commissioner, the material shall be identified by a tag or certificate indicating that the material is the same that was approved for its intended use by the commissioner or, if applicable, previously approved by the board of standards and appeals, and containing the applicable approval number or calendar number under which the material received such approval.

ARTICLE 114  
APPROVED AGENCIES

§28-114.1 General. Approved agencies shall satisfy the provisions of this article and the rules of the department as to qualifications and operations. The commissioner may revoke or suspend the commissioner's approval of or otherwise sanction an approved agency for cause.

§28-114.1.1 Independent. An approved agency shall perform its authorized duties objectively and competently. The agency shall disclose possible conflicts of interest so that objectivity can be confirmed.

§28-114.1.2 Testing equipment. An approved agency shall have adequate testing equipment to perform required tests. The equipment shall be periodically calibrated.

§28-114.1.3 Personnel. An approved agency shall employ experienced personnel qualified to conduct, supervise and evaluate the tests or inspections that it undertakes. Special inspections may be performed only by employees of such agency who are special inspectors qualified pursuant to department rules to perform or witness the particular test or inspection. The commissioner may require proof of the qualifications of employees.

§28-114.1.4 Background. The commissioner may require an approved agency to submit to an investigation of its background and of the background of its principals as a condition of approval.

§28-114.1.5 Insurance. An approved agency shall maintain liability insurance as required by

department rules.

§28-114.2 Written evaluation by approved agency. An agency's evaluation of material or report of an inspection shall be in writing after satisfactory completion of the required inspection or test.

§28-114.3 Records. The approved agency shall maintain records of inspection and test reports for at least six years or for such period as the commissioner shall determine and shall make such records available to the department upon request.

§28-114.4 Re-authorization of approved agencies. An approved agency shall have its approval re-authorized in accordance with rules of the department.

#### ARTICLE 115 SPECIAL INSPECTORS

§28-115.1 General. Special inspectors shall satisfy the provisions of this article and the rules of the department as to qualifications in order to perform special inspections required by chapter 17 of the New York city building code or elsewhere in this code.

§28-115.2 Disqualification. The commissioner may disqualify a special inspector from performing special inspections pursuant to this code for cause. The special inspector shall be given prior notice of the proposed disqualification and the opportunity to contest such action. A list of special inspectors who have been disqualified from performing special inspection shall be maintained and made available to the public upon request.

§28-115.3 Records. A special inspector shall maintain records of special inspections on a building by building basis for at least 6 years or for such period as the commissioner shall determine and shall make such records available to the department upon request.

#### ARTICLE 116 INSPECTIONS AND SIGN-OFF OF COMPLETED WORK

§28-116.1 General. Construction or work for which a permit is required shall be subject to inspection in

accordance with this code and such construction or work shall remain accessible and exposed for inspection purposes until the required inspection is completed. A satisfactory inspection by the department or the acceptance by the department of a satisfactory report of an inspection by an approved agency or special inspector shall not be construed to be an approval by the department of a violation of the provisions of this code or of any other provision of law. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. The permit holder shall be liable for any expense entailed in the removal or replacement of any material required to allow inspection. The inspector shall supply a report of the results of each inspection.

§28-116.2 Types of inspections. The inspections set forth in sections 28-116.2.1 through 28-116.2.4 are required or authorized by this code.

§28-116.2.1 Preliminary inspection. Before approving construction documents, the commissioner is authorized to examine or cause to be examined structures or premises for which an application has been filed.

§28-116.2.2 Compliance inspections. In addition to the inspections specified in this code, the commissioner is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department.

§28-116.2.3 Special inspections and other inspections required during the progress of work. After the issuance of a work permit, special inspections and other inspections required by this code to be made during the progress of the work shall be made at such times or at such stages of the work and in such manner as shall be provided by this code or as otherwise required by the commissioner. The permit application shall set forth an inspection program for the job. Such inspections may be made by approved agencies or by the department as provided in this code or in the rules of the department. Special inspections shall be performed only by individuals who are special inspectors. The

commissioner may accept inspection and test reports from approved agencies and special inspectors and the work may, unless otherwise specifically provided by code provisions or directed by the commissioner, proceed without any verifying inspection or test by the department. The names and business addresses of special inspectors and approved agencies shall be set forth in the work permit application. All inspection reports shall be in writing and signed by the person or entity performing the inspection. A record of all inspections shall be kept by the person performing the inspection. The commissioner may require inspection reports to be filed with the department. Records of inspections made by approved agencies and special inspectors shall be maintained by such persons for a period of six years after sign-off of the job or for such other period of time as the commissioner may require and shall be made available to the department upon request.

§28-116.2.3.1 Special inspection of fabricated items. Where fabrication of regulated products is performed on the premises of a fabricator's shop, special inspection of the fabricated items is required. The special inspector shall verify that the fabricator maintains detailed fabrication and quality control procedures that provide a basis for inspection control of the workmanship and the fabricator's ability to conform to approved construction documents and referenced standards. The special inspector shall review the procedures for completeness and adequacy relative to the code requirements for the fabricator's scope of work.

Exception: Special inspections shall not be required where the fabricator is approved by the commissioner in accordance with section 28-116.7.

§28-116.2.4 Final inspection. There shall be a final inspection of all permitted work. Final inspections shall comply with sections 28-116.2.4.1 through 28-116.2.4.2.

§28-116.2.4.1 Final inspection prior to certificate of occupancy. In all cases where the permitted work requires the issuance of a new or amended certificate of occupancy, the final inspection shall

be performed by the department in the presence of the, permit holder, the registered design professional of record or the superintendent of construction. Such inspection shall be performed after all work authorized by the building permit is completed and before the issuance of the certificate of occupancy. All failures to comply with the provisions of this code or approved construction documents shall be noted and the owner promptly notified thereof in writing. All defects noted in such inspection shall be corrected. Reports of such final inspections shall be maintained by the department. The final inspection report shall confirm that defects noted have been corrected, that the work is in substantial compliance with the approved construction documents and with this code and with other applicable laws and rules and that all required inspections were performed.

§28-116.2.4.2 Final inspection prior to letter of completion. In all cases where the permitted work does not require the issuance of a certificate of occupancy, the final inspection shall be performed by the department or at the option of the owner by an approved agency. Whenever the department performs a final inspection, the department shall charge a fee for such inspection. The applicant shall take all reasonable and necessary steps to insure that the final inspection is performed within one year after the expiration of the last permit. The inspection shall be performed after all work authorized by the building permit is completed. The person performing the inspection shall note all failures to comply with the provisions of this code or approved construction documents and shall promptly notify the owner in writing. All defects noted in such inspection shall be corrected. The final inspection report shall confirm that defects noted have been corrected, that the work is in substantial compliance with the approved construction documents and with this code and other applicable laws and rules and that all required inspections were performed. Final inspection reports shall be filed with and maintained by the department. Records of final inspections made

by approved agencies shall be maintained by such persons for a period of six years after sign-off or for such other period as the commissioner shall require and shall be made available to the department upon request.

§28-116.3 Inspection requests. It shall be the duty of the permit holder to notify the department or the person designated to perform the inspection when work requiring inspection is ready to be inspected. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by this code.

§28-116.4 Sign-off of completed work. Upon submission of a satisfactory report of final inspection and all required submittal documents, the department shall document the sign-off of the project and issue a letter of completion, or, if applicable, a certificate of occupancy for the work. The owner shall take all reasonable and necessary steps for the issuance by the department of a letter of completion or certificate of occupancy within 1 year following the expiration of the last permit.

§28-116.4.1 Issuance of certificate of compliance. The following types of service equipment shall not be operated until the department issues a certificate of compliance after submission of a satisfactory report of inspection and testing of such equipment in accordance with this code and all required submittal documents:

1. Air-conditioning and ventilation systems
2. Elevators, escalators, moving walkways and dumbwaiters
3. Fuel burning and fuel-oil storage equipment
4. Refrigeration systems
5. Heating systems
6. Boilers.

Exception: A certificate of compliance shall not be required in connection with work specifically

exempted from permit requirements in accordance with this code or department rules.

§28-116.5 Payment of outstanding penalties. The department may refuse to issue a letter of completion or certificate of occupancy pending payment of all outstanding fines or civil penalties imposed for violations of this code, the 1968 building code or other laws enforced by the department at the same building.

§28-116.6 List of approved inspection agencies. A current list of all approved inspection agencies shall be maintained by the department and published in written form.

§28-116.7 Fabricator approval. Approval of fabricators by the department shall be based upon review of the fabricator's written procedural and quality control manuals and periodic auditing of fabrication practices by an approved agency.

§28-116.7.1 Fabricator's certificate of compliance. For all fabricated items, the approved fabricator shall submit a certificate of compliance to the department stating that the work was performed in accordance with the approved construction documents, referenced standards and applicable provisions of law.

#### ARTICLE 117 PLACES OF ASSEMBLY

§28-117.1 Place of assembly certificate of operation. It shall be unlawful to use or occupy any building or space as a place of assembly without a certificate of operation issued by the commissioner. An application for a certificate of operation shall be made to the department in such form and containing such information as the commissioner shall provide. The department shall inspect every place of assembly space prior to the issuance of a certificate of operation. The commissioner shall not issue a certificate of operation unless the department determines that the space conforms substantially to the approved construction documents and to the provisions of this code and that the certificate of occupancy authorizes such use. A certificate of operation shall not be issued to a place of assembly providing seating or other moveable furnishings unless the commissioner approves a plan conforming to this code and the rules of

the department. Seating and other moveable furnishings shall be maintained at all times during occupancy in accordance with the approved plan. Any amendment of such plan shall be subject to the prior approval of the commissioner.

§28-117.1.1 Contents of certificate of operation. The certificate of operation shall contain the place of assembly certificate number, the number of persons who may legally occupy the space and any other information that the commissioner may determine. Such certificate of operation shall be framed and mounted in a location that is conspicuously visible to a person entering the space. For the purposes of this article a place of assembly permit issued prior to the effective date of this code shall be valid until its expiration. Prior to the expiration of the term of such place of assembly permit, the party responsible for renewal shall apply to the department for a certificate of operation in accordance with this article, except that the issuance of such certificate shall be subject to the same inspection requirement as a renewal of a certificate of operation pursuant to this code.

§28-117.2 Temporary place of assembly certificate of operation. At the commissioner's discretion, a temporary certificate of operation may be issued for a place of assembly space upon request by the applicant in accordance with this code provided that public safety is not jeopardized thereby. The applicant shall notify the fire department when a temporary place of assembly certificate of operation is issued.

§28-117.3 Duration and renewal of certificate. A place of assembly certificate of operation shall be issued for a term of 1 year and may be renewed annually upon payment of proper fees and proof of satisfactory inspection by the fire department.

## ARTICLE 118 CERTIFICATES OF OCCUPANCY

§28-118.1 General provisions. No building or open lot shall be used or occupied without a certificate of occupancy issued by the commissioner. Issuance of a certificate of occupancy shall not be construed as

an approval of a violation of the provisions of this code or of other applicable laws and rules.

§28-118.2 New buildings or open lots. No building hereafter constructed or open lot shall be occupied or used, in whole or in part, unless and until a certificate of occupancy shall have been issued certifying that such building or open lot conforms substantially to the approved construction documents and the provisions of this code and other applicable laws and rules.

§28-118.3 Completed buildings or open lots. The provisions of sections 28-118.3.1 through 28-118.3.4 shall apply to completed buildings or open lots.

§28-118.3.1 Change of occupancy or use. No building, open lot or portion thereof hereafter altered so as to change from one occupancy group to another, or from one zoning use group to another, either in whole or in part, shall be occupied or used unless and until the commissioner has issued a certificate of occupancy certifying that the alteration work for which the permit was issued has been completed substantially in accordance with the approved construction documents and the provisions of this code and other applicable laws and rules for the new occupancy or use.

§28-118.3.2 Changes inconsistent with existing certificate of occupancy. No change shall be made to a building or open lot or portion thereof inconsistent with the last issued certificate of occupancy or, where applicable, inconsistent with the last issued certificate of completion for such building or open lot or which would bring it under some special provision of this code or other applicable laws or rules, unless and until the commissioner has issued a new certificate of occupancy.

§28-118.3.3 Changes to exits. No building hereafter altered so as to cause a major alteration to existing exits shall be occupied or used unless and until the commissioner has issued a certificate of occupancy certifying that the alteration work for which the permit was issued has been completed substantially in accordance with the approved construction documents and the provisions of this code and other applicable laws and rules.

§28-118.3.4 Existing buildings or open lots without certificates of occupancy. A building or open lot in existence prior to January 1, 1938 and heretofore legally used or occupied without a certificate of occupancy or, if applicable, a certificate of completion, and subject to the provisions of section 28-102.4 (continuation of lawful existing use), may continue to be used or occupied without a certificate of occupancy or, if applicable, a certificate of completion, pursuant to the requirements of section six hundred forty five of the New York city charter, this code and other applicable laws and rules provided there is no change in the existing use or occupancy classification of the building, open lot or portion thereof.

§28-118.3.4.1 Application for certificate of occupancy. Upon application by the owner of such a building or open lot in existence prior to January 1, 1938, the commissioner shall issue a certificate of occupancy for such building, provided that at the time of issuing such certificate, such existing building is in compliance with all retroactive requirements of the 1968 building code applicable to such building and no notices of violation or other notices or orders affecting the building as they relate to the provisions of this code or the 1968 building code are pending before the department, and provided further that it is established to the satisfaction of the commissioner, after inspection and investigation, that the alleged use of the building has heretofore legally existed.

§28-118.3.4.2 Partial certificates of occupancy. Partial certificates of occupancy may be issued pursuant to section 28-118.16 .

§28-118.4 Applications for certificates of occupancy. All applications for certificates of occupancy shall be submitted on forms furnished by the department. Applications for new buildings or additions to buildings shall be accompanied by an accurate and complete final lot survey made by a land surveyor showing such information as prescribed by the commissioner. The commissioner may waive the

requirement of such survey in the case of small sheds, stands, temporary structures, signs, and similar small structures.

§28-118.4.1 Applicant. The application for a certificate of occupancy shall be made by or on behalf of the owner of the building or open lot; and if made by a person other than the owner, the application shall be accompanied by a signed statement of the applicant stating that the applicant is authorized by the owner to make the application. The full names and addresses of the owner, and applicant, and of the principal officers thereof, if a corporation, shall be stated in the application.

§28-118.4.2 Statement of compliance. When a certificate of occupancy for a new or altered building is applied for, the application shall be accompanied by a signed statement of the registered design professional of record or the superintendent of construction, as applicable, stating that such person has examined the approved construction documents and specifications of the building for which the certificate of occupancy is sought, and that, to the best of his or her knowledge and belief, the building has been erected or altered in accordance with the approved construction documents and specifications and, as erected or altered, complies with the provisions of this code and all other applicable laws and rules, except insofar as variations or variances therefrom have been legally permitted or authorized, specifying such variations or variances in such required statement.

§28-118.5 Review of applications for certificates of occupancy. All applications for certificates of occupancy and accompanying submittal documents shall be examined promptly after their submission. If the building is entitled to the certificate of occupancy applied for, the application shall be approved and the certificate of occupancy issued by the commissioner within 10 calendar days after submission of a complete application. Otherwise, the application shall be rejected and written notice of rejection, stating the grounds of rejection, shall be given to the applicant within 10 calendar days of the submission of the application. Wherever an application has been rejected and proof is thereafter submitted establishing that

the grounds of rejection have been met and that the building is entitled to the certificate of occupancy applied for, the application shall be approved and the certificate of occupancy issued within 10 calendar days after submission of such proof.

§28-118.6 Issuance of certificate of occupancy. After the commissioner inspects the building or open lot and determines that the building or open lot conforms substantially to the approved construction documents and to the provisions of this code and other applicable laws and rules, the commissioner shall issue a certificate of occupancy that shall contain information including, but not limited to:

1. The building permit number.
2. The address of the structure.
3. Block and lot numbers pertaining to the zoning lot as of the date of issuance, as defined in section 12-10 of the New York city zoning resolution.
4. The description of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code.
6. The name and signature of the commissioner.
7. The code under which the permit was issued.
8. The use and occupancy, in accordance with this code and the zoning resolution.
9. The type of construction as defined in this code.
10. The design occupant load of floors and spaces.
11. Types of major fire suppression or alarm systems.
12. Any special stipulations and conditions of the building permit.
13. The maximum permissible live loads on the several floors of the building.
14. The number of parking spaces.

§28-118.7 Pavement plan. No certificate of occupancy shall be issued for any building or open lot requiring a pavement plan pursuant to article 108 unless and until an inspection has been made to show that all work necessary for compliance with the pavement plan has been completed.

§28-118.7.1 Certification. No certificate of occupancy shall be issued for any building or open lot requiring a certification pursuant to article 108 unless and until the applicant, after completion of construction work, inspects the sidewalk and certifies that the sidewalk is free from defects.

Exception: The commissioner may issue a certificate of occupancy if in lieu of such certification the owner furnishes to the department prior to the issuance of the certificate of occupancy security satisfactory to the department that the sidewalk will be installed and paved or repaired within the time specified by the department.

§28-118.8 Sanitary/storm water drainage. No certificate of occupancy shall be issued until the department confirms by inspection that all work relating to the installation of the part of the sanitary/storm water drainage system which lies outside of such property, if and as required by section 24-526 of the administrative code, has been satisfactorily completed.

§28-118.9 Fire protection plan. No certificate of occupancy shall be issued until a fire protection plan, if required pursuant to article 109, has been filed and accepted.

§28-118.10 Electrical work. No certificate of occupancy shall be issued unless compliance with the New York city electrical code is certified by the commissioner.

§28-118.11 Certificates of compliance. No certificate of occupancy shall be issued until certificates of compliance are issued for the following types of service equipment:

1. Air conditioning and ventilation systems.
2. Elevators, escalators, moving walkways and dumbwaiters.
3. Fuel burning and fuel oil storage equipment.

4. Refrigeration systems.

5. Heating systems.

6. Boilers.

§28-118.12 Place of assembly certificate of operation. The issuance of a certificate of occupancy shall not authorize the use of any space as a place of assembly unless and until the commissioner thereafter issues a place of assembly certificate of operation.

§28-118.13 Certificates of occupancy for air-inflated structures, air-supported structures, and tents. Certificates of occupancy for air-inflated structures, air-supported structures, and tents shall be issued for a period not exceeding one year. Such certificates may be renewed for one-year periods upon demonstration that the structure complies with all laws and rules in effect at the time of the request for renewal.

§28-118.14 Payment of outstanding penalties. The department may refuse to issue a certificate of occupancy for a building pending payment of all outstanding fines or civil penalties imposed for violations of this code, the 1968 building code or other laws enforced by the department at the same building.

§28-118.15 Temporary certificates of occupancy. Upon application, the commissioner is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that the subject portion or portions of the building may be occupied and maintained in a manner that will not endanger public safety, health, or welfare. The commissioner shall set a time period during which the temporary certificate of occupancy is valid.

§28-118.16 Amended certificate of occupancy. Where a building exceeds three stories in height and the change does not exceed 20 percent of the total floor area, an amendment to the existing certificate of occupancy for such new use shall be issued by the commissioner certifying that the proposed new

occupancy and use conforms to the provisions of the laws governing building construction and that the proposed use will not be in conflict with any provisions of the labor law, multiple dwelling law or the zoning resolution.

§28-118.16.1 Partial certificate of occupancy. A partial certificate of occupancy may be issued to a specific floor or floors of an existing building erected prior to January 1, 1938 subject to the following conditions:

1. The building does not have and is not otherwise required to have a certificate of occupancy or certificate of completion, if applicable.
2. The floor or floors for which a certificate of occupancy is issued shall not constitute more than 50 percent of the gross floor area of the building.
3. The building is of noncombustible construction and protected with an automatic sprinkler system.
4. Adequate means of egress are provided from all floors.
5. Upon inspection, the building is deemed safe for occupancy.

§28-118.17 Revocation of certificates of occupancy. The commissioner is authorized to request, in writing, pursuant to section six hundred forty five of the New York city charter that the board of standards and appeals or a court of competent jurisdiction revoke, vacate, or modify a certificate of occupancy issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information provided to the department.

§28-118.18 Record of certificates. A record of all certificates of occupancy shall be kept by the department; and copies thereof shall be furnished by the department upon request, and on the payment of the fee prescribed in article 112 of this chapter. The certificate of occupancy or a copy thereof shall be available for inspection at the building at all reasonable times.

§28-118.19 Posting of certificates of occupancy. The owner shall post a copy of the building's certificate of occupancy in accordance with this section 28-118.19, except buildings occupied entirely by group R3. Buildings that are not required to have a certificate of occupancy shall be posted by the owner with a sign or placard in a form prescribed by the commissioner. The certificate of occupancy or sign, as applicable, shall be permanently affixed to the structure in a conspicuous location in a public hall, corridor, management office of the building or as otherwise prescribed by the commissioner.

§28-118.19.1 Replacement of posted certificates of occupancy and signs. All posted certificates of occupancy or signs, as applicable, shall not be removed or defaced and, if lost, removed or defaced, shall be immediately replaced. The commissioner may inspect or cause to be inspected periodically all buildings for compliance with the provisions of this code in regard to posting; and the inspection reports shall specify any violation thereof.

#### ARTICLE 119 SERVICE UTILITIES

§28-119.1 Connection of service utilities. It shall be unlawful for any utility company or utility corporation to supply gas to a building, place or premises in which new meters other than replacement are required until a certificate of approval of gas installation from the department is filed with such utility company or utility corporation. When new gas service piping has been installed it shall be locked-off by the utility company or utility corporation either by locking the gas service line valve or by installing a locking device on the outside gas service line valve. The lock shall not be removed until the gas meter piping (other than utility owned) and gas distribution piping have been inspected and certified as required by the department of buildings as being ready for service.

§28-119.1.1 Gas shut-off for alterations to gas piping systems. When alterations, extensions or repairs to existing gas meter piping or gas distribution piping require the shut-off of gas flow to a building, the utility company shall be notified by the owner or his or her authorized representative.

§28-119.2 Temporary connection. The commissioner shall have the authority to authorize the temporary connection of the building or system to the gas service utility.

§28-119.3 Authority to disconnect utility service. The commissioner may authorize disconnection of gas service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The department shall notify the local gas utility company, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action.

## CHAPTER 2 ENFORCEMENT

### ARTICLE 201 GENERAL

§28-201.1 Unlawful acts. It shall be unlawful to erect, construct, alter, extend, repair, fail to maintain, move, remove, demolish, occupy, use or operate any building, structure, premises, or equipment, or to conduct any subject matter regulated by this code or by the zoning resolution, or to cause same to be done, in conflict with or in violation of any of the provisions of this code, the zoning resolution, or the rules of the department or, with regard to existing buildings, any applicable provision of the 1968 building code or any other law or rule enforced by the department. It shall be unlawful to fail to comply with an order of the commissioner or to violate any order of the commissioner issued pursuant to this code, the 1968 building code, the zoning resolution or any law or rule enforced by the department.

§28-201.2 Classification of violations. The commissioner shall promulgate rules classifying all violations of this code, the zoning resolution or, with regard to existing buildings, the 1968 building code or other

laws or rules enforced by the department as immediately hazardous violations, major violations or lesser violations unless the classification of such violations is specifically directed by this code. Such classification shall be based on the effect of the violation on life, health, safety or the public interest or the necessity for economic disincentive.

§28-201.2.1 Specified immediately hazardous violations. The commissioner shall classify the following violations as immediately hazardous:

1. A violation of section 28-210.1 in which a building legally approved for occupancy as a one-family or two-family dwelling (as set forth in the certificate of occupancy or if no certificate of occupancy is required, as evidenced by official records) is illegally converted to or maintained as a dwelling for occupancy by four or more families;
2. Any violation of section 28-211.1 false statement;
3. Any violation of a stop work order or of a cease use order;
4. Any violation of a vacate order or order to seal, secure and close, or closure order;
5. Unlawful demolition;
6. Falsely impersonating an employee or authorized representative of the department;
7. Occupancy without a required certificate of occupancy;
8. Intentional disobedience or violation of any provision of a closure order;
9. Submittal of a materially false or misleading professional certification.
10. A violation of section 28-212.11.
11. A violation of section 28-307.1.

§28-201.2.2 Specified major violations. The commissioner shall classify the following violations as major violations:

1. A violation of section 28-210.1 other than a violation that is directed to be classified as

immediately hazardous.

2. Failure to perform required façade, elevator and boiler inspections and to file required reports within the applicable time period.

§28-201.3 Methods of enforcement. The commissioner may use any of the methods set forth in this code to enforce compliance with this code, the 1968 building code, the zoning resolution, other laws or rules enforced by the department and orders of the commissioner issued pursuant thereto including but not limited to:

1. Proceedings for the recovery of civil penalties for immediately hazardous, major and lesser violations before the environmental control board or other administrative tribunal.
2. Civil judicial proceedings for the recovery of civil penalties or injunctive relief or both for immediately hazardous, major and lesser violations.
3. Criminal judicial proceedings for the imposition of criminal fines or imprisonment or both for immediately hazardous, major and lesser violations.
4. The issuance and enforcement of peremptory orders for immediately hazardous, major and lesser violations.
5. The issuance of a commissioner's request for correction of an unlawful use or condition or order to correct an unlawful use or condition.
6. Other special remedies as set forth in this code, the zoning resolution or other law or rule.

§28-201.3.1 Issuance. Officers and employees of the department and of other city agencies designated by the commissioner shall have the power to issue summonses, appearance tickets and notices of violation for violations of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department, orders, and requests for corrective action.

§28-201.4 Aggravating and mitigating factors. Civil penalties and criminal fines and imprisonment shall

be imposed within the ranges set forth in this code or as otherwise specified in this code or other law, with due regard for mitigating and aggravating factors.

ARTICLE 202  
CIVIL PENALTIES

§28-202.1 Civil penalties. Except as otherwise specified in this code or other law, violations of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department shall be punishable by civil penalties within the ranges set forth below:

1. For immediately hazardous violations, a civil penalty of not less than one thousand dollars nor more than twenty-five thousand dollars may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than one thousand dollars for each day that the violation is not corrected. The commissioner may by rule establish specified daily penalties within the limit set forth above for particular immediately hazardous violations.
2. For major violations, a civil penalty of not more than ten thousand dollars may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than two hundred fifty dollars for each month that the violation is not corrected. The commissioner may by rule establish specified monthly penalties within the limit set forth above for particular major violations.
3. For lesser violations, a civil penalty of not more than five hundred dollars may be imposed for each violation.

§28-202.2 Continuing violations. Notwithstanding the assessment of daily penalties, each day that a violation continues shall be a separate and distinct offense.

ARTICLE 203  
CRIMINAL PENALTIES

§28-203.1 Criminal fines and imprisonment. Except as otherwise specified in this code or other law,

violations of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department shall be punishable by criminal fines and imprisonment within the ranges set forth below:

1. Every person convicted of violating a provision of this code, the 1968 building code, the zoning resolution or other law or rule enforced by the department or an order of the commissioner issued pursuant thereto that is classified by the commissioner or the code as an immediately hazardous violation shall be guilty of a misdemeanor punishable by a fine of not more than twenty-five thousand dollars or by imprisonment of not more than one year or by both such fine and imprisonment.
2. Every person convicted of violating a provision of this code, the 1968 building code, the zoning resolution or other law or rule enforced by the department or an order of the commissioner issued pursuant thereto that is classified by the commissioner or the code as a major violation shall be guilty of a violation punishable by a fine of not more than ten thousand dollars or imprisonment for not more than 15 days or both such fine and imprisonment.
3. Every person convicted of violating a provision of this code, the zoning resolution or other law or rule enforced by the department or an order of the commissioner issued pursuant thereto that is classified by the commissioner or the code as a lesser violation shall be guilty of a violation punishable by a fine of not more than five hundred dollars.

§28-203.2 Continuing violations. In the case of continuing violations each day's continuance shall be a separate and distinct offense.

#### ARTICLE 204 ENVIRONMENTAL CONTROL BOARD

§28-204.1 General. Any person who shall violate or fail to comply with any of the provisions of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department or with any order issued pursuant thereto shall be liable for a civil penalty that may be recovered in a proceeding

before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before the board. Such notice of violation may be issued by employees of the department or of other city agencies designated by the commissioner and may be served by such employees or by a licensed process server.

§28-204.2 Order to certify correction. Each such notice of violation shall contain an order of the commissioner directing the respondent to correct the condition constituting the violation and to file a certification with the department that the condition has been corrected. Unless otherwise provided by rule, such order shall require that violations classified as major or lesser be corrected within 30 days from the date of the order and that violations classified as immediately hazardous be corrected forthwith. Such order shall also require that certification of the correction of the violation shall be filed with the department in a manner and form and within such additional period of time as shall be established by rule of the department. In any proceeding before the environmental control board, no civil penalty shall be imposed for a lesser violation if the respondent complies with the commissioner's order to correct and to certify correction of the violation within the applicable time period. However, such violation may serve as a predicate for purposes of assessing aggravating factors attributable to multiple offenses.

§28-204.3 Failure of proof. In any proceeding before the environmental control board, if the board finds that the commissioner has failed to prove the violation charged, the order requiring the respondent to correct the condition constituting the violation shall be deemed dismissed.

§28-204.4 Failure to certify the correction of a violation. Failure to comply with an order of the commissioner issued pursuant to section 28-204.2 to correct and to certify correction of a violation within the applicable time period shall be a violation of this code for which penalties may be imposed in addition to the penalties that may be or have been imposed for the violation referred to in such order. Upon application, for good cause, the commissioner may extend the time for filing the certification of correction

of a violation, but not for more than 30 days for each extension.

§28-204.5 False statements in certification of correction. For the purposes of this section 28-204.5, if the environmental control board finds that a certification of correction filed pursuant to section 28-204.2 contained material false statements relating to the correction of a violation, such certification of correction shall be null and void and the penalties set forth in this code for the violation may be imposed as if such false certification had not been filed with and accepted by the department. It shall be an affirmative defense that the respondent neither knew nor should have known that such statements were false.

§28-204.6 Tax lien. Enforcement of environmental control board judgments against owners for certain building code violations. Notwithstanding any provision of law to the contrary, an environmental control board judgment against an owner for a building code violation with respect to a private dwelling, a wooden-framed single room occupancy multiple dwelling, or a dwelling with a legal occupancy of three or fewer dwelling units shall constitute a tax lien on the property named in the violation with respect to which such judgment was rendered, as hereinafter provided. Such liens shall be entered and enforced as provided in this section 28-204.6.

§28-204.6.1 Record of unpaid judgments. There shall be filed in the office of the department a record of all such unpaid judgments. Such records shall be kept by tax lot and block number and shall be accessible to the public during business hours. An entry of a judgment on the records of the department shall constitute notice to all parties.

§28-204.6.2 Lien. All such unpaid judgments shall constitute a lien upon the property named in the violation with respect to which such judgment was rendered when the amount shall have been definitely computed as a statement of account by the department, and the department shall file such statement with the department of finance for entry against the property. Such lien shall have a priority over all other liens and encumbrances except for the lien of taxes and assessments. However, no lien

created pursuant to this section 28-204.6 shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless the requirements of section 28-204.6.1 are satisfied.

§28-204.6.3 Notice. A notice, stating the amount due and the nature of the charge, shall be mailed by the department of finance to the last known address of the person whose name appears on the records of the department as being the owner or agent of the property or as the person designated by the owner to receive tax bills or, where no name appears, to the property, addressed to either the “owner” or the “agent.”

§28-204.6.4 Mailing. Such notice mailed by the department of finance pursuant to this section 28-204.6.4 shall have stamped or printed thereon a reference to section 204.6.

§28-204.6.5 Failure to pay charge. If such charge is not paid within 30 days from the date of entry, it shall be the duty of the department of finance to receive interest thereon at the same rate as unpaid real property taxes, to be calculated to the date of payment from the date of entry.

§28-204.6.6 Enforcement of lien. Such charge and the interest thereon shall continue to be, until paid, a lien on the property. Any remedy or procedure available for the enforcement of tax liens against such property, including, but not limited to, any sale of a tax lien or any foreclosure of a tax lien, shall be available with respect to such tax lien. In addition, such tax lien may be satisfied in accordance with the provisions of section 1354 of the real property actions and proceedings law.

§28-204.6.7 Validity of lien. In any proceeding to enforce or discharge a lien created pursuant to this section 28-204.6, the validity of the lien shall not be subject to challenge based on the lawfulness of the judgment, except as provided in this section 28-204.6.

§28-204.6.8 Challenge. No such challenge may be made except by the owner of the property or a mortgagee or lienor whose mortgage or lien would, but for the provisions of this section 28-204.6, have priority over the department’s lien.

§28-204.6.9 Notice to mortgagees and lienors. Notwithstanding the foregoing provisions, no such judgment shall be entered and enforced as a tax lien against any property unless at the time of the issuance of the notice of violation a copy of such notice was also served on all mortgagees and lienors of record of such property by mail addressed to the recorded addresses of such mortgagees and lienors.

§28-204.6.10 Non-exclusive remedy. The procedures provided in this section 28-204.6 for the enforcement of environmental control board judgments against owners shall be in addition to any other methods provided under any other provision of law for the enforcement of such judgments.

#### ARTICLE 205 CIVIL JUDICIAL PROCEEDINGS

§28-205.1 Civil judicial enforcement. The owner, lessee, person in charge, or occupant of any building, structure, premises, equipment or part thereof, where a violation of this code, the 1968 building code, the zoning resolution or of other laws or rules enforced by the department or any order issued by the commissioner shall exist or the agent, architect, builder, contractor, engineer, or any other person who commits or assists in any such violation or who maintains any building, structure, premises, equipment or part thereof where any such violation shall exist shall be subject to an action or proceeding to restrain, correct or abate such violation, or to compel compliance with such order. Upon request of the commissioner, the corporation counsel may institute judicial actions or proceedings seeking such relief. In addition to any other remedies, in any such action or proceeding the defendant or respondent shall be subject to the payment of civil penalties as provided in this code.

§28-205.1.1 Corporation counsel. Such actions and proceedings may be instituted by the corporation counsel in the name of the city in any court of competent jurisdiction in the city and shall be given preference over pending causes therein. In such actions or proceedings, the city may apply for restraining orders, preliminary injunctions or other provisional remedies, with or without notice; and

no undertakings shall be required as a condition to the granting or issuing of any such order, injunction or remedy, or by reason thereof. No court shall lose jurisdiction of any action or proceeding hereunder by reason of a plea that the title to real estate is involved if the object of the action is to recover a penalty for the violation of any of the provisions of this code.

§28-205.1.1.1 Naming the building as a defendant. The corporation counsel shall name as defendants the building, structure, or premises where the violation shall exist by describing it by block, lot number, and street address and at least one of the owners of some part of or interest in the building, structure, or premises.

§28-205.1.1.2 In rem jurisdiction over the building. In rem jurisdiction over the building, structure, or premises where the violation shall exist shall be complete by affixing the summons to the door of the building, structure, or premises and by mailing the summons by certified or registered mail, return receipt requested, to one of the owners of some part of or interest in the building, structure, or premises. Proof of service shall be filed within two days thereafter with the clerk of the court designated in the summons. Service shall be complete upon such filing.

§28-205.1.1.3 Service on other defendants. Defendants, other than the building, structure, or premises where the violation shall exist, shall be served with the summons as provided in the civil practice law and rules.

§28-205.1.2 Presumptive evidence. In any action or proceeding founded upon a claim by the commissioner that any law or rule enforceable by the department has been violated, or that a lawful order issued by such commissioner has not been complied with, the following presumptions shall apply:

§28-205.1.2.1 Presumption of commissioner certificate. A certificate in writing by the commissioner, or his or her authorized representative, shall be presumptive evidence of any matter

stated therein.

§28-205.1.2.2 Presumption of ownership. The person in whose name the real estate affected by the action is recorded in the office of the city register or the county clerk, as applicable, shall be presumed to be the owner thereof.

§28-205.1.2.3 Presumption of employment or agency. Whenever there is evidence that a person was the manager, operator, or supervisor or, in any other way, in charge of the premises, at the time the violation occurred, such evidence shall be presumptive that he or she was an agent or employee of the owner or lessee of the building, structure, or premises.

§28-205.1.3 Costs. In no case shall the department, or any officer or employee thereof, be liable for costs in any such action or proceeding; and officers and employees of the department, acting in good faith and without malice, shall be free from liability for acts done in any such action or proceeding.

§28-205.1.4 Lien. Any judgment rendered in any such action or proceeding shall be and become a lien upon the premises named in the complaint in such action or proceeding, if any, the lien to date from the time of filing a notice of pendency in the office of the clerk of the county in which the premises is located, and to have priority before any mortgage or other lien existing prior to such filing, except tax and assessment liens.

§28-205.1.5 Notice of pendency. The notice of pendency referred to in this section 28-205.1.5 may be filed at the commencement of judicial proceedings; provided the commissioner may deem such action to be necessary. Any notice of pendency filed pursuant to the provisions of this code may be vacated and cancelled of record upon an order of a justice of the court in which such action or proceeding was instituted or is pending, or upon the consent in writing of the corporation counsel. The clerk of the county where the notice is filed is hereby directed and required to mark any such notice of pendency, and any record or docket thereof, as vacated and cancelled of record upon the presentation and filing

of a certified copy of such order or consent.

ARTICLE 206  
CRIMINAL JUDICIAL PROCEEDINGS

§28-206.1 Criminal judicial enforcement. The owner, lessee, person in charge, or occupant of any building, structure, premises, equipment or part thereof, where a violation of this code, the 1968 building code, the zoning resolution or of other laws or rules enforced by the department or any order issued by the commissioner shall exist or the agent, architect, builder, contractor, engineer, or any other person who commits or knowingly assists in any such violation or who maintains any building, structure, premises, equipment or part thereof where any such violation shall exist shall be guilty of a criminal offense punishable by a fine or imprisonment or both a fine and imprisonment in accordance with this code.

§28-206.1.1 Other penalties. The criminal penalties provided by this code shall be in addition to or alternative to any civil sanctions authorized to be imposed for an unlawful use or condition cited in this code.

ARTICLE 207  
PEREMPTORY ORDERS

§28-207.1 Contents and service. Peremptory orders issued by the commissioner shall contain a description of the building, structure, premises, equipment or subject matter affected, and shall be designated by address where applicable. Such orders may be served personally or by posting at the premises followed by regular mail, by any officer or employee of the department, or by any person authorized by the commissioner.

§28-207.2 Stop work orders. Whenever the commissioner finds that any building work is being executed in violation of the provisions of this code, the 1968 building code, the zoning resolution or of any laws or rules enforced by the department, or in a dangerous or unsafe manner, the commissioner or his or her authorized representative may issue a stop work order.

§28-207.2.1 Issuance. Upon issuance of a stop work order by the commissioner, all work shall immediately stop unless otherwise specified. Such order may require all persons to forthwith vacate the premises pursuant to the provisions of section 28-207.4 and may also require such work to be done as, in the opinion of the commissioner, may be necessary to remove any danger therefrom. The police department or other law enforcement agency or officer shall, upon the request of the commissioner, assist the department in the enforcement of this section 28-207.2. The stop work order may be given verbally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons executing the work. A verbal order shall be followed promptly by a written order and shall include the reason for the issuance of the stop work order.

§28-207.2.2 Unlawful continuance. No person shall with knowledge or notice of a stop work order allow, authorize, promote, continue or cause to be continued any work covered by the stop work order, except such work that may be required by order of the commissioner.

§28-207.2.3 Rescission. Upon application, the commissioner shall rescind the stop work order when the condition that gave rise to its issuance has been corrected and either all civil penalties or criminal fines assessed for any violation of such order have been paid or, where a violation is pending, security for the payment of such penalties or fines has been posted in accordance with department rules, or where the stop work order was issued in error or conditions are such that it should not have been issued. The commissioner may by rule require the payment of a fee in the amount of the expense of additional inspection and administrative expense related to such stop work order.

§28-207.3 Public nuisance. Whenever any building, structure, place or premises is or may be perilous to life or property by reason of the nature or condition of its contents, its use, the overcrowding of persons therein, defects in its construction, or deficiencies in fire alarm, fire extinguishing equipment or fire escape equipment, or by reason of any condition in violation of law or order of the commissioner, the

commissioner may declare that the same, to the extent that the commissioner may specify, is a public nuisance and may order the same to be removed, sealed, abated, repaired, altered or otherwise improved.

§28-207.3.1 Rescission. Upon application, the commissioner shall rescind such order when the condition that gave rise to its issuance has been corrected or where the declaration was issued in error or conditions are such that it should not have been issued. The commissioner may by rule require the payment of a fee in the amount of the expense of additional inspection and administrative expense related to such order.

§28-207.4 Vacate order. In case any order to remedy a condition that is or may be imminently perilous, dangerous or detrimental to life, public safety or property, issued by the commissioner is not complied with, or the commissioner determines that an emergency exists requiring such action, the commissioner may order and immediately cause any building, structure, place or premises to be vacated. The vacate order may be given verbally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons executing the work. A verbal order shall be followed promptly by a written order and shall include the reason for the issuance of the vacate order.

§28-207.4.1 Basis for vacate. Conditions for which the commissioner may issue a vacate order shall include but shall not be limited to the following conditions that create a hazard to life, public safety, or property:

1. Danger of structural failure;
2. Danger of façade failure;
3. Inadequate fire protection, detection, or suppression;
4. Inadequate egress; or
5. Improper storage of hazardous materials, combustible or toxic.

§28-207.4.2 Enforcement of vacate order. All orders issued pursuant to this section 28-207.4 shall be

posted upon the premises and made available to the public. Immediately upon the posting of an order upon the premises, officers and employees of the police department, the department, and other authorized officers and employees of the city shall immediately act upon and enforce such order. The police department shall provide all reasonable assistance to the department and other authorized officers and employees necessary to carry out the provisions of this section 28-207.4. A copy of the vacate order shall be filed with the county clerk of the county in which the premises is located. Such filing shall be notice of the vacate order to any subsequent owner and such owner shall be subject to such order.

§28-207.4.3 Rescission. Upon application, the commissioner shall rescind the vacate order when the condition that gave rise to its issuance has been corrected and either all civil penalties or criminal fines assessed for any violation of such order have been paid or, where a violation is pending, security for the payment of such penalties or fines has been posted in accordance with department rules, or where the vacate order was issued in error or conditions are such that it should not have been issued. The commissioner may by rule require the payment of a fee in the amount of the expense of additional inspection and administrative expense related to such vacate order.

§28-207.5 Cease use orders for service equipment. Whenever the commissioner determines that the operation of any service equipment is or may be dangerous to life, health or safety, the commissioner may issue a cease use order requiring such equipment to be shut down or sealed or otherwise made inoperable. Upon the issuance of such order a tag or notice shall be affixed to the device warning that the equipment is unsafe for operation. It shall be unlawful to operate such equipment or to remove or deface such tag unless and until the cease use order is rescinded by the commissioner.

§28-207.5.1 Rescission of cease use order. Upon application, the commissioner shall rescind the cease use order when the condition that gave rise to its issuance has been corrected and either all civil

penalties or criminal fines assessed for any violation of such order have been paid or, where a violation is pending, security for the payment of such penalties or fines has been posted in accordance with department rules or where the cease use order was issued in error or conditions are such that it should not have been issued.. The commissioner may by rule require the payment of a fee in the amount of the expense of additional inspection and administrative expense related to such cease use order.

ARTICLE 208  
COMMISSIONER’S REQUEST FOR CORRECTIVE ACTION

§28-208.1 Commissioner’s request for corrective action. As an alternative to the issuance of an order or notice of violation, the commissioner may issue a request for corrective action to any person responsible for any claimed unlawful use or condition in any premises. Each request for corrective action shall have the commissioner’s signature affixed thereto; but the commissioner may authorize any subordinate to affix such signature, including an electronic signature.

§28-208.1.1 Contents and delivery. The request for corrective action shall contain a description of the building, structure, premises, equipment or subject matter affected, shall be designated by address, where applicable, shall be sent by regular mail or upon consent by electronic means to the owner, lessee, person in charge, or occupant of the building, structure, premises, equipment or to any person responsible for the unlawful use or condition at the last known address for such person. Requests for corrective action may be sent to a managing agent or other person specifically designated by the owner to attend to such requests on behalf of the owner. Each such request shall describe the unlawful use or condition, call upon the person addressed to correct it and to inform the department of the action taken. A time for correction or response shall be specified. A request for corrective action may be given orally, followed within a reasonable time by a writing as described in this section 28-208.1.1. A request for corrective action shall provide notice that failure to respond to such a request

may result in the imposition of a fee for any subsequent inspection that results in the issuance of a notice of violation for the condition.

§28-208.1.2 Public record. The department shall keep a record, available to the public, of requests for corrective action issued pursuant to this article. The record of a request for corrective action shall be reflected as withdrawn upon submission to the department of a statement in a form prescribed by rule indicating that the use or condition has been corrected or did not exist or following an inspection by the department that confirms correction. A request for corrective action may be issued in response to a complaint or inspection.

§28-208.1.3 Other remedies not precluded. Nothing in this article shall be construed to limit the power of the commissioner to take any other action authorized by this code with respect to any unlawful use or condition including, but not limited to, the commencement of an action or proceeding in a court or before the environmental control board or other administrative tribunal or the issuance of a peremptory order or to require that the commissioner issue a request for corrective action as a prerequisite to any other enforcement action.

ARTICLE 209  
COMMISSIONER'S ORDER TO CORRECT UNLAWFUL USE OR CONDITION

§28-209.1 General. The commissioner may issue an order to the persons responsible for any unlawful use or condition in any premises directing such person to correct the unlawful use or condition. Each such order shall have the commissioner's signature affixed thereto; but the commissioner may authorize any subordinate to affix such signature, including an electronic signature.

§28-209.2 Contents and service of order. All orders issued by the commissioner shall contain a description of the building, structure, premises, equipment or subject matter affected, and shall be designated by address where applicable. All such orders shall be served by regular mail or, upon consent, electronically. Such orders may be served by any officer or employee of the department, or by any person

authorized by the commissioner. An order may be given orally, followed within a reasonable time by a written order as described in this section 28-209.2. Failure to comply with a commissioner's order within the stated time period shall be a violation of this code punishable by civil penalties or criminal fines and imprisonment as set forth in this code. Proof of compliance with a commissioner's order shall consist of certification as prescribed by the rules of the department.

#### ARTICLE 210 ILLEGAL CONVERSIONS

§28-210.1 Illegal residential conversions. It shall be unlawful, except in accordance with all requirements of this code, to convert any dwelling for occupancy by more than the legally authorized number of families or to assist, take part in, maintain or permit the maintenance of such conversion. Upon the finding of such violation and the imposition of punishment for such violation as set forth in this code the department or if applicable the environmental control board shall forward to the internal revenue service, the New York state department of taxation and finance and the New York city department of finance the name and address of the respondent or defendant, the address of the building or structure with respect to which the violation occurred and the time period during which the violation was found to have existed.

#### ARTICLE 211 FALSE STATEMENTS

§28-211.1 False statements in certificates, forms, written statements, applications, reports or certificates of correction. It shall be unlawful for any person to make a material false statement in any certificate, professional certification, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or any rule of any agency promulgated thereunder that such person knew or should have known to be false.

§28-211.1.1 Rebuttable presumption. In any proceeding that relates to a false statement in a certification of correction of a violation filed in compliance with section 28-204.2 if an inspection

made within six months after the filing of the certification finds a condition constituting a violation that is the same as the condition described in the notice of violation with respect to which such certification was filed, there shall be a rebuttable presumption that the condition described in such notice of violation continued and is the same condition found in the inspection.

§28-211.2 Falsely impersonating an officer. It shall be unlawful for any person to falsely represent himself or herself as an officer, inspector or employee of the department, or as acting under the authority of the department, or without authority to use, wear or display a shield or other insignia or emblem such as is worn by such officer, inspector or employee.

#### ARTICLE 212

#### ABATEMENT OF PUBLIC NUISANCE CAUSED BY CERTAIN ILLEGAL OCCUPANCIES

§28-212.1 Abatement of public nuisances caused by illegal commercial or manufacturing occupancy in residence districts and certain other zoning districts. Any building or part thereof or vacant land that is located in a residence zoning district and that is occupied for a use not permitted in such district in violation of the zoning resolution, without a certificate of occupancy authorizing such use, is hereby declared to be a public nuisance. Any building or part thereof or vacant land that is located in a C-1 or C-2 commercial zoning district and that is occupied for a commercial or manufacturing use indicated under use group 16, 17, or 18 as described in sections 32-25, 42-14, and 42-15 of the zoning resolution, in violation of the zoning resolution, without a certificate of occupancy authorizing such use is hereby declared to be a public nuisance.

§28-212.2 Order of closure. If a building or part thereof or vacant land in which such a nuisance occurs is not occupied primarily as a residence, the commissioner may, in addition to or as an alternative to any other remedy under any other provision of law, after notice and the opportunity for a hearing in accordance with this article, order the closing of such building or part thereof or such vacant land to the extent necessary to abate the nuisance.

§28-212.3 Notice of hearing. A notice of hearing with respect to an order of closure shall be served on the owner and mortgagee of record of such building or part thereof or such vacant land and on any person alleged to be occupying such building or part thereof or such vacant land at which the nuisance is located.

§28-212.4 Service of notice of hearing. Service may be made on the owner by delivering such notice to the owner or to an agent of the owner or to a person of suitable age and discretion at the residence or place of business of the owner or, if upon reasonable application such delivery cannot be completed, by affixing such notice in a conspicuous place at the owner's place of business or residence or by placing it under the entrance door at either of such locations or by delivering such notice to a person employed by the owner to work at or to manage or maintain the premises at which the nuisance is located and, in all instances except personal delivery upon such owner by mailing the notice of hearing as follows:

§28-212.4.1 Mailing to owner's registered address. To the person registered with the department of housing preservation and development as the owner or agent of the premises, at the address filed with such department in compliance with article two of subchapter four of chapter two of title twenty-seven of the administrative code;

§28-212.4.2 Mailing to billing address. To the person designated as owner of the building or designated to receive real property tax or water bills for the building at the address for such person contained in one of the files compiled by the department of finance for the purpose of the assessment or collection of real property taxes and water charges or in the file compiled by the department of finance from real property transfer forms filed with the city register upon the sale or transfer of real property; or

§28-212.4.3 Mailing to recorded address. To the person in whose name the real estate affected by the order of the commissioner is recorded in the office of the city register or the county clerk as the case may be at the address set forth on the recorded instrument.

§28-212.4.4 Service on corporate owner. Service may be made on an owner that is a corporation pursuant to section 306 of the business corporation law; however, service upon a corporation shall be deemed to have been completed 45 days following service upon the secretary of state.

§28-212.4.5 Service on mortgagees. Service may be made upon mortgagees of record by mailing such notice to the mortgagees at the address set forth on the recorded instrument.

§28-212.4.6 Service on occupants. Service may be made upon an occupant by delivering such notice to the occupant or to a person employed by the occupant to work at or to manage or maintain the premises at which the nuisance is located; or by affixing such notice to the premises at which the nuisance is located in a conspicuous place or by placing a copy under the entrance door of such premises and mailing a copy of such notice to the occupant at such premises; and in all instances except personal delivery upon such occupant, by mailing the notice of hearing to the occupant at the premises at which the nuisance is located.

§28-212.4.7 Proof of service. Proof of service pursuant to section 28-212.4.1 through 28-212.4.6 shall be filed with the commissioner.

§28-212.5 Conduct of hearing by office of administrative trials and hearings. The hearing shall be conducted by the office of administrative trials and hearings. The administrative law judge assigned to hear the matter shall submit his or her proposed findings of fact and recommended decision to the commissioner. If based on such recommended decision, proposed findings of fact, and the record of the hearing the commissioner determines that the building or part thereof or vacant land is a public nuisance, pursuant to this article, the commissioner may issue an order of closure. Such order shall not bar legally required ingress or egress for residential occupancy of parts of the building that are not subject to the order of closure.

§28-212.6 Lack of knowledge not a defense. At such hearing it shall not be a defense that the owner,

occupant, lessor, lessee, mortgagee, or other person having an interest in the property lacked knowledge of or did not acquiesce or participate in the creation or continuation of the public nuisance.

§28-212.7 Closure not an act of possession. A closure ordered by the commissioner pursuant to this article shall not constitute an act of possession, ownership, or control by the city over the closed premises.

§28-212.8 Posting of order of closure. An order of closure shall be posted at the building or part thereof or vacant land that is the subject of such order, and shall be mailed to the record owner of such premises, and any record mortgagee at the address for such person set forth in the recorded instrument, and to the person designated as owner or agent of the building or designated to receive real property tax or water bills for the building at the address for such person contained in one of the files compiled by the department of finance for the purpose of the assessment or collection of real property taxes and water charges or in the file compiled by the department of finance from real property transfer forms filed with the city register upon the sale or transfer of real property. A copy shall also be filed with county clerk or register of the county in which such premises are located. Such filing shall be notice of the order to any subsequent owner and such owner shall be subject to such order.

§28-212.9 Enforcement of order of closure. On the tenth business day after the posting of such order and upon the written directive of the commissioner, police officers and authorized employees of the department shall act upon and enforce such order by sealing, padlocking, or otherwise preventing access to the premises in a manner that will not bar legally required ingress or egress for residential occupancy of parts of the building that are not subject to the closure order.

§28-212.10 Rescission of order of closure. If at any time after the issuance of such order, the owner, mortgagee, or other person having an interest in the property provides assurance, in a form satisfactory to the commissioner, that the illegal commercial or manufacturing use of the premises has been discontinued and will not reoccur, or such owner, mortgagee, or other person establishes that the premises may be

lawfully occupied for such use, the commissioner shall rescind the closure order. If such order is rescinded, the commissioner shall, upon request of such owner, mortgagee, or other person, provide a copy of such rescission, which may be filed with the county clerk or register of the county in which such premises are located. No such re-occupancy shall be permitted without a certificate of occupancy authorizing such use.

§28-212.11 Violation of closure order. It shall be unlawful for any person to use or occupy or to permit any other person to use or occupy any building or part thereof or vacant land that has been sealed, padlocked, or otherwise closed pursuant to an order of the commissioner. It shall be unlawful to mutilate or remove a posted order of the commissioner. Intentional disobedience or violation of any provision of a closure order shall be punishable as an immediately hazardous violation.

#### ARTICLE 213 PENALTY FOR WORK WITHOUT A PERMIT

§28-213.1 Department penalty for work without a permit. In addition to any penalties otherwise authorized by law pursuant to article 202 and the rules of the department, whenever any work for which a permit is required pursuant to this code has been performed without a permit, a penalty shall be imposed by the department as provided in this article.

§28-213.1.1 Penalty for work without permit on one or two-family dwelling. Where work has been performed without a permit on a one-family or two-family dwelling the penalty shall equal four times the amount of the fee payable for the permit. Where only part of the work has been performed without a permit, the penalty shall be reduced proportionately according to the amount of work still to be performed at the time a permit is issued. Notwithstanding the foregoing, no such penalty shall be less than five hundred dollars.

§28-213.1.2 Penalty for work without permit on other than one or two-family dwelling. The penalty for work without a permit on buildings other than one or two-family dwellings shall be fourteen times

the amount of the fee payable for such permit. Where only part of the work has been performed without a permit, the penalty shall be reduced proportionately according to the amount of work still to be performed at the time a permit is issued. Notwithstanding the foregoing, no such penalty shall be less than five thousand dollars.

§28-213.2 Waiver. Such penalty and the permit fee shall be payable by the owner of the building on which the unpermitted work was performed. A waiver or reduction of such penalty shall be available to a subsequent bona fide purchaser of the premises pursuant to department rules.

§28-213.3 Payment of penalty required before issuance of permit. No permit shall be issued for work described in this article until the penalty assessed by the department pursuant to this article has been paid.

§28-213.4 Procedure. The department shall adopt a rule setting forth a procedure for assessment of penalties pursuant to this article.

ARTICLE 214  
ORDER TO SEAL, SECURE AND CLOSE

§28-214.1 Order to seal, secure and close. If the commissioner determines such action is necessary to the preservation of life and safety the commissioner may order a building subject to a vacate order to be sealed, secured and closed, except that the commissioner shall not order sealed, secured and closed any dwelling unit or other space lawfully used for residential purposes unless such dwelling unit or other space is sealed pursuant to the provisions of article 216.

§28-214.1.1 Definition. For the purpose of this article, “sealed” and “sealed, secured and closed” shall mean the use of any means available to render the building, structure or part thereof inaccessible, including but not limited to the use of a padlock or cinder blocks.

§28-214.1.2 Hearing. Such order to seal, secure and close shall contain notice of the opportunity for a hearing with respect to such order to determine if the order was properly issued in accordance with the

provisions of this article. Such hearing shall be conducted by the commissioner, or in the commissioner's discretion, by the office of administrative trials and hearings or the environmental control board. If the matter is referred to such office or board, the hearing officer shall submit his or her findings of fact and a recommended decision to the commissioner. The hearing shall be held within three business days after the receipt of the written request of an owner, lessor, lessee, or mortgagee for such hearing. The commissioner shall render a decision within three business days after such hearing is concluded or findings of fact and a recommendation are submitted.

§28-214.1.3 Service of seal, secure and close order. Such order issued pursuant to this article shall be served as follows: It shall be mailed to the record owner of such premises; any record mortgagee of such premises at the address for such person as set forth in the recorded instrument; and if reasonably ascertainable, the person designated as owner's agent of the building or designated to receive real property tax or water bills for the building at the address for such person contained in one of the files compiled by the department of finance for the purpose of the assessment or collection of real property taxes and water charges or in the file compiled by the department of finance from real property transfer forms filed with the city register upon the sale or transfer of real property. A copy shall also be filed with the county clerk of the county in which such premises is located. Such filing shall be notice of the order to any subsequent owner and such owner shall be subject to such order.

§28-214.1.4 Rescission of seal, secure and close order. An order issued pursuant to this article shall not be rescinded unless the owner, lessor, lessee or mortgagee seeking such rescission provides assurance, in a form satisfactory to the commissioner, that the conditions that caused the issuance of such order have been corrected and will not reoccur. If such order is rescinded, upon the request of the owner, lessor, lessee or mortgagee, the commissioner shall provide a certified copy of such rescission, which may be filed with the county clerk of the county in which such premises is located.

§28-214.1.5 Expenses of enforcing seal, secure and close orders. The expenses attending the execution of any and all orders duly made by the department shall respectively be a several and joint personal charge against each of the owners or part owners, and each of the lessees and occupants of the building, structure, enclosure, place or premises to which such order relates, and in respect to which such expenses were incurred; and also against every person or body who was by law or contract bound to do that in regard to such building, structure, enclosure, place or premises which such order requires. Such expenses shall also be a lien on all rent and compensation due, or to become due, for the use of any building, structure, place or premises, or any part thereof, to which such order relates, and in respect to which such expenses were incurred.

§28-214.1.6 Notice of seal, secure and close order to community. The commissioner shall give written notice of the closing of any building, structure, enclosure, place or premises pursuant to this article, and any subsequent actions taken with respect thereto, as soon as practicable, to the borough president of the borough within which the closing has occurred; the council member representing the district within which the closing has occurred; and the local community board. On January first of each year, the commissioner shall submit a report to the council, setting forth the number of closings made in the previous year, the locations of such closings, and the nature and use of the premises closed. The commissioner shall, in addition, as soon as practicable after a building, structure, enclosure, place or premises has been closed, make and publish a report of said closing in a manner calculated to quickly notify the local community in which such closing occurred. The commissioner shall also make and publish a report of any premises reopened pursuant to his or her permission under this article. Failure to comply with this section 28-214.1.6 shall not invalidate any action taken by the commissioner pursuant to this article.

§28-214.2 Access to sealed premises. The commissioner shall allow access to the premises sealed,

secured and closed pursuant to this article to an owner, or a lessor, lessee or mortgagee upon the following conditions:

1. The submission of a written affirmation, satisfactory to the commissioner, that such person or persons will commence or cause to be commenced without delay all work necessary to correct the conditions stated in the vacate order or otherwise to make the premises meet all applicable laws and rules and will complete such work within a period of time and in a manner to be approved by the commissioner;
2. The submission of a written affirmation or other proof satisfactory to the commissioner describing the steps that have been taken and will be taken in the future to ensure that the premises will be used or operated in a lawful manner and specifying such lawful use;
3. If a license, permit, certificate of operation or certificate of occupancy is necessary for such lawful use, the submission of a written affirmation or other proof, satisfactory to the commissioner, describing the steps that have been taken and will be taken in the future to ensure that such premises will be used or operated in compliance with any law requiring such license, permit, certificate of operation or certificate of occupancy; and
4. If the premises are leased and the person making the affirmations described above in items 1, 2 and 3 is not such lessee, the commissioner may also require any authorized person seeking access to submit a written affirmation or other proof that proceedings to enable such person to take actions necessary to ensure compliance with the affirmations submitted by such authorized person pursuant to items 1, 2 and 3 have been commenced.

§28-214.3 Additional penalties for harm or injury from violation of order to seal, secure and close.

Notwithstanding any other law, rule, or regulation, any person, corporation, partnership, association or any other legal entity who permits a building, structure, enclosure, place or premises, or any part thereof,

to be unlawfully occupied or used in contravention of an order of the commissioner pursuant to this article, or who negligently fails to prevent or prohibit such unlawful occupancy or use, shall be liable for a civil penalty of not more than one million dollars, if any other person suffers serious physical injury, as defined in section ten of the penal law, or death in the building, structure, place or premises or any part thereof subject to such order as a result of such unlawful occupancy or use. If more than one person suffers serious physical injury or death, such penalty shall be recoverable for each person suffering serious physical injury or death. Such penalty shall be recovered in a civil action brought by the corporation counsel in the name of the city in any court of competent jurisdiction. In determining the amount of the civil penalty to be imposed the court shall consider:

1. The extent and severity of injury to persons and property caused by the violation;
2. The history of violations by the defendant at such premises, or any other premises, of laws or rules enforced by the department;
3. The degree of willfulness, recklessness, or negligence displayed by the defendant in committing the subject violation;
4. The defendant's financial resources; and
5. The defendant's good faith efforts to cure the subject violation, including efforts to obtain entry to or possession of the premises in order to do so.

§28-214.3.1 Payment by city. In the event that the family of any person seriously injured or who has died as the result of any unlawful occupancy or use described in this section 28-214.3 is unable to collect a judgment recovered in a civil action for personal injury or wrongful death against a defendant who has violated this section 28-214.3 because of the insolvency of such defendant, the city may, in its discretion, pay to such injured person or the family of such deceased person an amount, as hereinafter provided, collected from such defendant in an action relating to the same injury or death

commenced by the corporation counsel against such defendant pursuant to this section 28-214.3.1.

§28-214.3.2 Limitations. Payments pursuant to section 28-214.3.1 shall be made as a matter of grace and shall be in such amounts and in accordance with such standards and procedures as shall be established by the mayor, provided, however, that any payment made pursuant to section 28-214.3.1 shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which such action is based; loss of earnings or support resulting from such injury; burial expenses not exceeding two thousand five hundred dollars of a person who died as a result of such unlawful occupancy or use described in this section 28-214.3; and the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of such unlawful occupancy or use. In no event shall the payment made to any person exceed the amount of such person's uncollected judgment for personal injury or wrongful death and in no event shall the total amount paid to any number of persons with such uncollected judgments against a single defendant exceed the actual amount collected by the city from such defendant in an action under this subdivision.

#### ARTICLE 215 EMERGENCY POWERS OF THE COMMISSIONER

§28-215.1 Emergency work. Notwithstanding any other provisions of law, if the commissioner determines that a structure or any part thereof is in imminent danger of collapse and the exigency of the situation is such that any delay may cause further danger to the public safety, then the commissioner may direct the commissioner of housing preservation and development or the department of citywide administrative services, or other city agency to perform or arrange the performance of the emergency demolition of such structure or part thereof or such other work as deemed by the commissioner to make it safe.

§28-215.1.1 Lien for emergency work. The expenses of the city in performing emergency work on

any structure or part of such structure pursuant to this article shall constitute a debt recoverable from the owner and a lien upon the land and any part of such structure that was not demolished. Every such lien shall have priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. Except as otherwise provided by rule of the affected agency, the agency incurring such expense shall be governed by the procedures set forth in article eight of subchapter five of the housing maintenance code with respect to the enforcement of such debt and lien against all types of structures, including those authorized to be occupied or otherwise occupied for residential, commercial, and manufacturing purposes.

§28-215.2 Stopping work and securing structures. See section 28-207.2.

§28-215.3 Vacating structures. See section 28-207.4.

§28-215.4 Violations of protective measures during construction or demolition. During the construction or demolition of a structure, the commissioner shall notify the owner of the structure affected of any failure to comply with any of the provisions of this code that concern the protection of the public and workers during construction or demolition. Unless the owner so notified proceeds immediately to comply with the orders of the commissioner, the commissioner shall have full power to correct the violation. All expenses incurred therefore shall become a lien on the property pursuant to section 28-112.9.

§28-215.5 Investigation of accidents or other emergency conditions. When necessary to conduct an investigation of any occurrence affecting building or construction safety, the commissioner may seize or impound equipment, building material, and portions of the affected building or premises for examination and testing. The police department or other authorized law enforcement agency shall cooperate with the commissioner upon request and shall provide a suitable place for the deposit of such items.

§28-215.6 Closing streets temporarily. The commissioner may, when necessary for the public safety, temporarily close the sidewalks, streets, structures or places adjacent to a structure or part thereof, and the

police commissioner, or any of his or her subordinates shall enforce all orders or requirements made by the commissioner, when so requested by the commissioner.

§28-215.7 Recovery of bodies from wrecked structures. Where any persons are known or believed to be buried under the ruins of any fallen structure or part thereof in the city, the commissioner shall cause an examination of the premises to be made for the recovery of the injured and bodies of the dead. Whenever, in making such examination, it shall be necessary to remove any debris from the premises, other city agencies shall cooperate with the commissioner in carrying out the purposes of this section 28-215.7, and shall provide suitable and convenient places for the deposit of such debris.

§28-215.8 Non-compliance with orders; execution of work by department. Upon the failure to comply with any order of the commissioner within the time limited thereby, and subject to the provisions of article 216, any work required to be executed by such order may be executed by the commissioner through the officers, agents or contractors of the department; and the city shall be reimbursed promptly for all costs and expenses of such work. Such costs and expenses shall become a lien upon the premises involved and named in the commissioner's order, which may be enforced in accordance with the provisions of section 28-112.9 of this code.

## ARTICLE 216 UNSAFE BUILDINGS

§28-216.1 Conditions constituting an unsafe building or structure. Any building, structure or part thereof described in this article shall be deemed an unsafe building and shall be demolished or removed or made safe and secure as provided herein.

§28-216.1.1 Compromised structures. Any structure or premises or part of a structure or premises that from any cause may at any time become dangerous or unsafe, structurally or as a fire hazard, or dangerous or detrimental to human life, health or safety, shall be demolished and removed or made safe and secure.

§28-216.1.2 Vacant buildings. Any vacant building not continuously guarded or not sealed and kept secure against unauthorized entry shall have all openings sealed in a manner approved by the commissioner, and it shall be the duty of the owner thereof promptly to make any repairs that may be necessary for the purpose of keeping such building sealed and secure.

§28-216.2 Record and notice of unsafe building, structure or premises. The department shall cause a report to be filed on an unsafe building, structure or premises. The report shall describe the nature of the occupancy of the structure and the nature of the unsafe condition and be made a record of the department.

§28-216.3 Notice and order. The owner, executor, administrator, mortgagee, lessee or any other person who may have a recorded vested or recorded contingent interest in the unsafe building, structure or premises, shall be served with a notice containing a description of the unsafe building, structure or premises and an order requiring such building be vacated pursuant to 28-207.4, if necessary, and sealed, secured, repaired, shored, or demolished and removed as may be deemed necessary by the department.

§28-216.3.1 Content. Such notice shall require the person thus served immediately to certify to the department his or her acceptance or rejection of the order. The notice shall further notify said person(s) that upon his or her refusal or neglect to comply with any of the requirements of this provision, a survey of the building or premises named in such notice will be made at a time and place therein named. The notice shall also state that if, pursuant to the survey, it is found that the building, structure, or premises referred to therein is unsafe or dangerous by the surveyors, their report of survey will be placed before the supreme court for trial at a time and place named in such notice.

§28-216.4 Method of service. The notice and order shall be served in accordance with the civil practice law and rules of the state of New York.

§28-216.5 Owner abatement of unsafe or dangerous conditions. If the person served with a notice and order pursuant to section 28-216.4 shall immediately certify his or her assent to the securing or removal of

such unsafe building, structure or premises condition, such person shall be allowed a period of time as determined by the commissioner, or his or her designee, within which to commence and complete the abatement of the unsafe or dangerous condition. Such person shall employ sufficient labor and assistance to secure or remove such conditions as expeditiously as possible.

§28-216.6 Survey. A survey of the building or premises shall be conducted as follows:

§28-216.6.1 Identity of surveyors. The survey shall be made by three competent persons, of whom one shall be the commissioner or his or her designee; another shall be a registered design professional appointed by a recognized professional organization; and the third shall be a registered design professional appointed by the person served with a notice pursuant to section 28-216.4. If the person served with such notice shall neglect or refuse to appoint such surveyor, the other two surveyors shall make the survey. In case they disagree, they shall appoint a third person to take part in such survey, who shall be a registered design professional of at least 10 years' practice, whose decision shall be final.

§28-216.6.2 Posting report of survey. A copy of the report of the survey shall be posted on the structure that is the subject thereof by the persons holding the survey, immediately on their issuing such report.

§28-216.6.3 Compensation of surveyors. The registered design professional appointed by the respective professional organization, as hereinbefore provided, who may act on any survey called in accordance with the provisions of this section 28-216.6, and the third surveyor who may have been called in the case of disagreement provided for in this section 28-216.6, shall each be paid a sum to be determined by rule to be promulgated by the department.

§28-216.6.4 Cost of survey. Any costs incurred by the city in connection with the survey shall become money due and owing to the city as part of the return of precept and judgment provided for in

section 28-216.9 and 28-216.10 of this code or pursuant to lien provided for in section 28-112.9 of this code.

§28-216.7 Court proceeding. Whenever the report of survey shall recite that the building, structure or premises surveyed is unsafe or dangerous, the corporation counsel or his or her designee shall, at the time specified in the notice, place such notice and report before a justice of the court named in the notice. The report of survey shall be in writing and constitute the issues to be placed before the court for trial. The purpose of the trial shall be to determine whether the unsafe building, structure, or premises shall be vacated and sealed, secured, shored, or demolished and removed.

§28-216.7.1 Precedence of proceeding. The unsafe building proceeding shall have precedence over every other business of such supreme court. The trial on the issues in the unsafe building proceeding shall be held without delay, at the time specified in the notice, and shall be held by a justice of the court or by a referee, whose decision or report in the matter shall be final.

§28-216.7.2 Precept to abate. If the justice or referee determines the building, structure or premises that is the subject of the report of survey is unsafe or dangerous, such justice or referee trying the case shall immediately issue a precept directed to the commissioner authorizing the commissioner forthwith to vacate pursuant to section 28-207.4, if necessary, and to seal, secure, shore, or demolish and remove the unsafe building, structure or premises named in such report. The precept shall be effective for a period of three years from the date of issuance.

§28-216.7.3 Notice of pendency. A notice of pendency shall be filed in accordance with the following procedure:

1. The notice of pendency shall consist of a copy of the notice described in section 28-216.3 and shall be filed in the office of the clerk of the county where the property affected by such action, suit or proceeding is located. Such notice of pendency may be filed at any time after

the service of the notice described in section 28-216.3.

2. Any notice of pendency filed pursuant to the provisions of this section 28-216.7.3 that has not expired may be vacated and cancelled of record upon an order of a justice of the court in which such suit or proceeding was instituted or is pending, or upon the consent in writing of the corporation counsel. The clerk of the county where the notice is filed is hereby directed and required to mark any such notice of pendency, and any record or docket thereof, as vacated and cancelled of record upon the presentation and filing of a certified copy of such order or consent.

§28-216.8 Execution of precept. A precept issued pursuant to section 28-216.7.2 shall be executed in accordance with the procedure set forth in sections 28-216.8.1 through 28-216.8.3.

§28-216.8.1 Work by the department. Upon receiving a precept under the provisions of section 28-216.7.2, the commissioner shall execute such precept, as therein directed, and may employ such labor and assistance and furnish such materials as may be necessary for that purpose. The commissioner or his or her designee shall direct the commissioner of citywide administrative services or the department of housing preservation and development or other authorized agency to perform work in accordance with the precept. Such work shall be performed by or under the direction of citywide administrative services in accordance with the provisions of section 4-204 of the administrative code, or the department of housing preservation and development, or such other authorized agency.

§28-216.8.2 Owner application to perform work. The owner of such unsafe building, structure, or premises, or any party interested therein, if such person applies to the commissioner immediately upon the issuing of such precept, shall be allowed to perform the requirements of such precept at his or her own cost and expense, if the performance shall be done immediately and in accordance with the requirements of such precept and other applicable laws and rules and such other requirements as the

commissioner shall impose.

§28-216.8.3 Modification of precept. The commissioner or his or her designee shall have authority to modify the requirements of any precept when such commissioner or designee shall be satisfied that such change will secure the safety of such structure or premises equally well.

§28-216.8.3.1 Upon application. The commissioner shall also have authority to modify the requirements of any precept upon application to such commissioner in writing by the owner of the unsafe building, structure, or premises, or such owner's authorized representative. In addition, upon application to modify the requirements of any precept to seal or shore the structure by the commissioner of housing preservation and development, citywide administrative services or such other authorized agency, the commissioner or designee shall have authority to modify such precept accordingly when the commissioner shall be satisfied that such change will secure the safety of such structure or premises equally well.

§28-216.8.3.2 Notice. After a determination to modify the precept is made by the commissioner, written notice of such determination shall be sent by regular mail to the owner and applicant for the modification if other than the owner, at his or her last known address.

§28-216.8.3.3 Failure of owner to perform work. If no action in accordance with the modified precept is undertaken by the owner or applicant for modification within the time period provided in the modification following the granting of such application, the commissioner may direct the department of housing preservation and development or the department of citywide administrative services or such other authorized agency to execute the original precept, provided however that prior to such execution, notice shall be provided by regular mail to the owner of the unsafe building, structure or premises and applicant for the modification if other than the owner, at his or her last known address. The owner shall continue to have the right to request the commissioner to

modify the requirements of the precept prior to the execution thereof.

§28-216.8.4 Interference prohibited. It shall be unlawful for any person to interfere, obstruct or hinder the commissioner or the commissioner of citywide administrative services, housing preservation and development, or other authorized agency, or any person who, acting under the authority conferred on such person by such commissioner, in performing the work authorized by a precept issued out of any court or modified in accordance with §28-216.8.3, or the work ordered by the commissioner in accordance with such precept under the provisions of section 28-216.8.3.3.

§28-216.8.5 Enforcement. The police commissioner shall enforce such orders or requirements when requested by the commissioner and shall likewise enforce same at the request of the commissioner of citywide administrative services, housing preservation and development, or other authorized agency, with respect to work performed by or under the direction of such commissioner pursuant to the provisions of section 28-216.8.3.3.

§28-216.9 Return of precept and reimbursement of city. Upon compliance with any precept issued to the commissioner in a proceeding under this article, the commissioner may make return thereof, with an endorsement of the action thereunder and the costs and expenses thereby incurred, to the justice of the court from which such precept issued. Such justice shall then tax and adjust the amount endorsed upon such precept, and shall adjust and allow the disbursements of the proceeding, including but not limited to the preliminary expenses of searches, service of the notice of survey and summons on interested parties, surveys thereof, and costs of executing the precept, which shall be inserted in the judgment in such proceeding. Such justice shall then render judgment for such amount and for the sale of the premises named in such notice, together with all the right, title and interest that the person named in such notice had in the lot, ground or land upon which such structure was placed, at the time of the filing of a notice of pendency in such proceedings, or at the time of the entry of judgment therein, to satisfy such judgment in

foreclosure of mortgages. Nothing in this article shall preclude the city from recovering such costs and expenses in any other lawful manner, including pursuant to section 28-112.9 of this code.

§28-216.10 Judgment lien. Any judgment rendered in an action or proceeding instituted under this article shall be and become a lien upon the premises named in such action or proceeding, such lien to date from the time of filing a notice of pendency in the office of the clerk of the county wherein the property affected by such action or proceeding, is located. Every such lien shall have priority before any mortgage or other lien as may exist prior to such filing except tax and assessment liens.

§28-216.11 Tax lien. Any costs and expenses incurred by any agency of the city pursuant to this article, including but not limited to the preliminary expenses of searches, service of the notice of survey and summons on interested parties, surveys thereof, and costs of executing the precept, shall be a debt recoverable from the owner of the premises and a lien upon the land and buildings upon or in respect to which such costs and expenses were incurred. Every such lien shall have priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. Except as otherwise provided by rule of the affected agency, the agency incurring such expense shall be governed by the procedures set forth in article eight of subchapter five of the housing maintenance code with respect to the enforcement of such debt and lien.

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.

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. 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 30 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 inspection. Except as otherwise provided in this article, all boilers 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 be inspected at least once a year by a qualified department boiler inspector or an approved agency. Such inspections shall also include the chimney connectors. 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. When the construction of the boiler allows, an internal inspection shall also be performed.

§28-303.3 Inspection of high-pressure boilers. Each owner of a high-pressure boiler, as defined in this code, may choose to have the annual boiler inspection conducted by the department or by a qualified boiler inspector in the employ of a duly authorized insurance company.

§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 Owner's annual statement. The owner of each boiler that is subject to periodic inspection shall file an annual written statement with the commissioner including:

1. The location of each boiler.
2. Whether the owner, agent, or lessee has had the boiler inspected by a qualified boiler inspector in the employ of a duly authorized insurance company or other qualified inspector in accordance with the requirements of this article, setting forth the name and address of the insurance company or other qualified inspector, the date of inspection, and the policy number covering the boiler.

§28-303.7 Report of inspection. A signed copy of the report of each boiler inspection shall be filed with the owner's annual statement, on such forms and in such manner as required by the commissioner. The report shall include a certification that identified defects have been corrected. The statement shall be filed within 30 days after installation of a boiler. Thereafter, it shall be filed as set forth in this article and in rules.

§28-303.8 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.

§28-303.9 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.

§28-303.10 Fees. Every owner of a boiler in use and inspected by a qualified boiler inspector in the employ of a duly authorized insurance company 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 statement. No fee shall be charged for

additional inspections made by the department pursuant to section 28-303.9.

ARTICLE 304  
PERIODIC INSPECTION OF ELEVATORS

§28-304.1 General. Every new and existing elevator or conveying system shall be inspected and tested in accordance with the schedule set forth in this article.

§28-304.2 Elevators, escalators, moving walkways and dumbwaiters. Elevators, escalators, moving walkways 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.

Exception: Elevators located in owner-occupied one-family, two-family or multiple-family dwellings that service only the owner-occupied dwelling unit and that are 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 test requirement of such reference standard.

§28-304.3 Chair lifts and stairway chair lifts. Chair lifts and stairway chair lifts shall be inspected and tested at intervals not exceeding one year.

§28-304.4 Amusement devices. Amusement devices shall be inspected and tested at intervals not exceeding six months except that for seasonally operated amusement devices, the commissioner may extend the periodic inspection and test for an additional two months.

§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 sections 28-304.6.1 through 28-304.6.6

§28-304.6.1 Inspection and testing entities. The required periodic inspections shall be made by the department, except that one inspection and test for elevators and escalators shall be made between

January first and December thirty-first of each year on behalf of the owner by an approved agency in accordance with this code and with rules promulgated by the commissioner. Required inspections and tests performed on behalf of the owner shall be performed by an approved agency in accordance with rules of the department and witnessed by an approved agency not affiliated with the one performing the test. The department shall be notified at least 10 days prior to the owner's periodic inspection and testing pursuant to rule 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 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 and the building owner notified immediately. The department shall be notified by telephone or fax within 24 hours.

§28-304.6.4 Notation of inspection or test. After each inspection or test, 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.

§28-304.6.5 Inspection and test reports submission. Inspection and test reports shall be submitted on such forms and in such manner as required by the commissioner. Copies of each report (each copy originally signed by the inspector performing the inspection and test and by the inspector witnessing the inspection and test, the agency director, and the building owner) listing all violations of any of the provisions of this code for each device inspected and/or tested, shall be delivered to the owner within

30 calendar days of the inspection or test and filed with the department within 45 calendar days of the inspection or test.

§28-304.6.6 Repair. All defects as found and reported in such inspection and test reports shall be corrected within 45 days of the filing of the report, except all hazardous conditions shall be corrected immediately.

§28-304.7 Required contract. The owner of all new and existing passenger elevators shall have a contract with an approved agency to perform elevator repair work and maintenance as defined by ASME 17.1. 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.

## ARTICLE 305 RETAINING WALLS

§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.

§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.

§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.

§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.

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.

#### ARTICLE 307 WORKPLACE EXITS

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

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

commissioner may, in the interest of public safety, adopt a rule requiring the posting of such signs at other workplaces.

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

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

CHAPTER 4  
LICENSING AND REGISTRATION OF BUSINESSES, TRADES AND OCCUPATIONS  
ENGAGED IN BUILDING WORK

ARTICLE 401  
GENERAL

§28-401.1 Application. This chapter shall apply to the licensing and registration of businesses, trades and occupations engaged in building work regulated by this code.

§28-401.2 General requirements for all licenses. The provisions of this article shall apply to all licenses issued by the department pursuant to this chapter. All applicants and licensees shall comply with the provisions of this article as well as the specific requirements applicable to the particular license as set forth in other articles of this chapter.

§28-401.3 Definitions. As used in this chapter the following terms shall have the following meanings unless the context or subject matter requires otherwise.

CERTIFICATE OF COMPETENCE. A certificate issued by the department to an individual representing that such individual has completed all requirements for the master plumber or master fire suppression piping contractor license but has not obtained a seal or plate; and that such certificate of competence has been renewed as required and is currently in effect. The certificate of competence shall bear the name of the holder and the certificate number. The holder of a certificate of competence is not a licensed master plumber or licensed master fire suppression piping contractor and may practice the trade for which the certificate is issued only under the direct and continuing supervision of a licensed master plumber or licensed master fire suppression piping contractor or, with respect to a city employee under the direct and continuing supervision of a supervising licensed master plumber or licensed master fire suppression piping contractor.

CITY AGENCY. A city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of

which are paid, in whole or in part, from the city treasury.

COMBINED STANDPIPE SYSTEM. A standpipe to which a sprinkler system is connected or is being connected.

DIRECT AND CONTINUING SUPERVISION. Responsible control exercised by a licensed individual, either personally or through one or more, but no more than three, levels of competent supervision over individuals (i) in the direct employ of the licensee, or (ii) in the direct employ of the city agency employing the licensee or (iii) in the direct employ of the business performing the actual work of the licensee's trade or the actual work permitted by the class of license held by the licensee, for which work such licensee assumes full responsibility. Such control shall be evidenced by such licensee's signature, and seal where applicable, upon any required statements, applications and/or permits and by demonstrating involvement of the licensee in the operations of the business, including hiring of employees, responsibility for financial matters, and oversight of work performance. Direct and continuing supervision includes field inspection, supervision of job sites, and the maintenance of records of such supervision and such other requirements as the commissioner may prescribe by rule for a particular license type.

DIRECT EMPLOY. An individual is in the direct employ of a licensee or business or a city agency when such individual is on the payroll of such licensee or business or city agency and under the usual common law rules applicable in determining the employer-employee relationship has the status of an employee. The work performed by such employee shall not exceed the class of license held by the licensee. Direct employment shall be evidenced by payroll records, such as social security payments, income tax withholding or the disbursement of other funds as required by law for the benefit of such employee, timekeeping records, such as time cards and sign-in sheets, work orders, and assignment or route logs.

FIRE SUPPRESSION PIPING WORK. The installation, maintenance, repair, modification, extension, or

alteration or testing of a fire suppression piping system in any building in the city of New York.

FIRE SUPPRESSION PIPING SYSTEM. Any system including any and all equipment and materials in connection therewith, with the exception of any electrical components that must be installed by a licensed electrician pursuant to the New York city electrical code, the purpose of which is to control, contain, suppress or extinguish fire and shall include:

1. The systems, materials and equipment described or referred to in this code (with the exception of any electrical components that must be installed by a licensed electrician pursuant to the New York city electrical code) which systems, materials or equipment shall include any standpipe system to which a sprinkler system is or is now being connected; provided, however, that such systems, materials or equipment shall not include any systems, materials or equipment constituting plumbing work, with the exception of up to thirty sprinkler heads off the domestic water in any one building; or
2. Any dry, liquid or gaseous chemical fire containment, suppression, control or extinguishing system or any other device or means of control, suppression, containment or extinguishing of fire (with the exception of any electrical components that must be installed by a licensed electrician pursuant to the New York city electrical code) but not including portable fire extinguishers.

HIGH-PRESSURE BOILER. A boiler that carries a pressure of more than fifteen pounds of steam per square inch and is rated in excess of ten horsepower, or that produces hot water over a pressure of one hundred sixty pounds per square inch or at a temperature over 250°F (121°C).

LICENSE. A license, registration, certification or other evidence, issued by the department pursuant to this chapter, representing that an individual, a sole proprietorship, partnership, corporation, business association or other person meets the qualifications and requirements as set out in this chapter and in the rules of the department and is authorized to engage in the particular trade, occupation or business as

indicated on the license and representing that such license, with associated plate and/or seal, where applicable, has been renewed as required and is currently in effect. The license shall bear the holder's full name, the type of license, the license class, where applicable, the license number and any restrictions relating to the use of such license. Such term shall not include a certificate of competence.

LICENSE BOARD OR BOARD. A panel of trade practitioners and others appointed by the commissioner as provided herein and in rules promulgated by the commissioner with the purpose of advising the commissioner regarding the character and fitness of applicants for a license or certificate of competence, allegations of illegal practices by persons licensed, or other matters as the commissioner may see fit.

LICENSED MASTER FIRE SUPPRESSION PIPING CONTRACTOR, MASTER FIRE SUPPRESSION PIPING CONTRACTOR. An individual who has satisfied the requirements of this chapter for the master fire suppression piping contractor license, who has been issued a license, plate and/or seal, and who is authorized under the provisions of this chapter to perform fire suppression piping work in the city of New York, according to the classification of license held. A master fire suppression piping contractor licensee shall practice his or her trade in association with a master fire suppression piping contractor business or as an employee of a city agency.

LICENSED MASTER PLUMBER, MASTER PLUMBER. An individual who has satisfied the requirements of this chapter for the master plumber license, who has been issued a license, plate and/or seal, and who is authorized under the provisions of this chapter to perform plumbing work in the city of New York. A master plumber licensee shall practice his or her trade in association with a master plumber business or as an employee of a city agency.

PLATE. A plaque issued by the department to a master plumber or a master fire suppression piping contractor setting forth the licensee's name and number, the class of license and the master plumber

business or master fire suppression piping contractor business operating pursuant to the plate, and displayed prominently and conspicuously on view to the public at the place of business registered with the department. The plate is the property of the department and is not transferable by the licensee.

PLUMBING WORK. The installation, maintenance, repair, modification, extension or alteration of plumbing, standpipe where a sprinkler is not connected or is not now being connected, domestic water, connections to the domestic water, combination domestic water and reserve standpipe supply tank up to and including the roof tank check valve, gas piping or any piping system referred to in the New York city plumbing code, and/or up to thirty sprinkler heads off the domestic water in any building in the city of New York.

PRIVATE ELEVATOR INSPECTION AGENCY. An approved agency authorized by the commissioner to operate as an independent contractor for the purpose of inspecting and testing elevators, escalators and other conveying equipment regulated by this code and shall include but shall not be limited to an insurance company, elevator maintenance company, elevator manufacturer or elevator inspection company.

SEAL. Emblem issued by the department to an applicant for some license types, that allows the licensee to stamp documents required by this code to be signed and sealed. The seal shall bear the full name of the licensee, the license type, the license class, where applicable, and the license number. The seal is the property of the department and is not transferable by the licensee. For applications and other documents submitted electronically, the digital signature and imprint of the seal may be submitted in a manner authorized by the commissioner.

SIGN. A sign as defined in section 12-10 of the zoning resolution.

TOTAL BOOM. A boom including jibs and other extensions.

§28-401.4 Requirement of license. It shall be unlawful for any person to engage in or carry on in the city any business, trade or occupation regulated by this chapter, without having first obtained a license from

the commissioner in accordance with and subject to the provisions of this chapter and the rules of the department. A license issued by the department for any such business, trade or occupation prior to the effective date of this code, shall remain in full force and effect until the expiration or termination thereof in accordance with the terms thereof, unless sooner revoked or suspended for cause as hereinafter provided. Any renewal of such license shall be in accordance with the provisions of this code.

§28-401.5 Application and conditions. Every application for a license or certificate of competence shall be made in such form and shall be accompanied by such information as the commissioner may prescribe, and by the required fee. It is a condition of the license or certificate of competence that information in the application be kept correct and current. Any change in required information shall be reported to the department within fourteen days after any change prior to issuance of the license or certificate of competence or within thirty days after any change following issuance.

§28-401.6 Qualifications of applicant. All applicants for a license or certificate of competence shall be at least 18 years of age, shall be able to read and write the English language, shall be of good moral character, and shall meet additional qualifications that may be prescribed for the particular license or certificate of competence.

§28-401.7 Examination of applicant. Except as otherwise specified for the particular license type, applicants for a license shall be required to take an examination in accordance with the rules of the department. Every applicant shall commence the license application process with the department within one year of passing the examination for licensure and shall furnish to the department a completed license application within one year of submission of the first filing. Failure to provide all requested documents in a timely manner will constitute an incomplete application and may result in denial of the license

§28-401.8 Investigation of applicant. Every applicant for a license or certificate of competence shall submit to investigation as directed by a governmental entity in order to determine the applicant's

character and fitness. The applicant shall furnish the department with payment for the actual cost of conducting a background investigation. Failure to provide all requested and completed documents in a timely fashion will constitute an incomplete application and will result in a denial of the license or certificate of competence.

§28-401.9 Insurance. Except as noted otherwise for a particular license, or exempted by the commissioner pursuant to rule, prior to the issuance of a license, or during the renewal thereof, the applicant shall file with the department (i) satisfactory evidence of a general liability insurance policy in the amount of one million dollars or such other amount as the commissioner may require, listing the New York city department of buildings as the certificate holder; and (ii) satisfactory evidence of an insurance policy for property damage in an amount set forth in rules and conditioned upon the observance of all applicable laws and rules governing the licensed activities and upon the payment of any applicable judgment awarded for damage to or destruction of property occurring in the performance of any regulated work by or under the supervision of the license holder. Each policy of insurance shall contain a provision for continuing liability notwithstanding any recovery under such policy. In addition, prior to the issuance of any license or seal and plate, if applicable, or during any renewal thereof, the applicant shall file with the department satisfactory evidence of compliance with the workers' compensation law and the disability benefits law.

§28-401.10 Issuance of license, plate and/or seal, where applicable, or certificate of competence. The commissioner shall issue a license or certificate of competence to each applicant who shall have submitted satisfactory evidence of his or her qualifications, and shall have satisfactorily passed all required examinations and investigations, provided that no license or certificate of competence shall be issued unless and until the applicant shall have paid the required fee and complied with such other and further requirements for the particular license or certificate of competence as may be set forth in this

chapter and in rules promulgated by the department. All licenses or certificates of competence issued by the commissioner shall have his or her signature affixed thereto; but the commissioner may authorize any subordinate to affix such signature. For licenses that require a plate and/or the application of a seal, the plate and/or seal shall be issued with the license except as provided otherwise in this chapter. The license, plate and seal are the property of the department and are not transferable by the licensee. No licensee shall make or cause to be made duplicates of a department-issued license, plate or seal. The loss or theft of a license, plate or seal must be reported to the department within five calendar days.

§28-401.11 Term of license. All licenses issued by the commissioner for which an examination is required shall expire three years from the date of issuance thereof, and may be renewed every three years thereafter without examination. The commissioner shall have authority to stagger the issuance of licenses for three-year terms. All licenses not requiring examination shall expire one year from the date of issuance thereof, and may be renewed each year thereafter except as otherwise noted for a specific license.

§28-401.12 Renewal of license or certificate of competence. Applications for renewal of a license or certificate of competence shall be accompanied by the renewal fee and such additional information as the commissioner may require, and shall be made at least 30 calendar days but not more than 60 calendar days prior to the expiration date of same. The failure of an individual to renew his or her license or certificate of competence shall have the effect of cancellation of the license or certificate of competence upon expiration, and the holder of a plate and/or seal issued by the department shall immediately surrender such plate and/or seal to the department. A person who fails to renew a license or certificate of competence within the time period set forth in this section 28-401.12 may apply for reinstatement of such license pursuant to section 28-401.13. The department may, following notice and an opportunity to be heard, refuse to renew a license or certificate of competence on any grounds on the basis of which it could

deny, suspend or revoke such license.

§28-401.13 Reinstatement. If a license or certificate of competence expires, the individual may apply for reinstatement of the license or certificate of competence, within one year of the date of its expiration without examination but subject to applicable late and reinstatement fees. Thereafter, and up to five years after the date of expiration, the commissioner may reinstate the license or certificate of competence without examination upon the applicant’s demonstration to the commissioner’s satisfaction of continued competence in the respective trade and satisfaction of any applicable continuing education requirements. A license or certificate of competence shall not be reinstated after five years from date of expiration.

§28-401.14 Continuing education. The commissioner may promulgate rules to require applicants for the renewal of licenses or certificate of competence to complete a prescribed number of hours of continuing education courses approved by the department within the term preceding the application for renewal and to provide proof of same in a form acceptable to the department. Such proof, when required, shall be submitted with the application for renewal.

§28-401.15 Schedule of fees.

<b><u>License Type</u></b>	<b><u>Initial Fee</u></b>	<b><u>Renewal Fee</u></b>	<b><u>Additional Fees</u></b>
<u>Master rigger license.</u>	<u>\$200.</u>	<u>\$150 triennially.</u>	<u>Late-renewal fee: \$50. Reissuance fee: \$50.</u>
<u>Special rigger license.</u>	<u>\$100.</u>	<u>\$75 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Basic hoisting machine operator license (Class A).</u>	<u>\$150.</u>	<u>\$150 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Basic hoisting machine operator license with endorsement to operate hoisting machinery without limitation or restriction (Class B).</u>	<u>\$200.</u>	<u>\$150 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Special hoisting machine operator license (Class C).</u>	<u>\$100.</u>	<u>\$75 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Concrete testing laboratory license.</u>	<u>\$100.</u>	<u>\$75 annually.</u>	<u>Late-renewal fee: \$50. Reissuance fee: \$50.</u>
<u>Welder license.</u>	<u>\$50.</u>	<u>\$45</u>	<u>Late-renewal fee: \$50.</u>

		<u>triennially.</u>	<u>Reissuance fee: \$50.</u>
<u>Master plumber license (certificate of competence).</u>	<u>\$200.</u>	<u>\$150 triennially.</u>	<u>Late-renewal fees: Up to 30 days late, \$50; From 31 days to five years late, \$100 for each year or part thereof. Reissuance fee: \$50.</u>
<u>Master plumber license plate.</u>	<u>\$75.</u>	<u>\$100 triennially.</u>	<u>Replacement fee upon loss of plate, w/affidavit: \$100.</u>
<u>Master plumber license seal.</u>	<u>\$50.</u>	<u>\$75 triennially.</u>	<u>Replacement fee upon loss of seal, w/affidavit: \$75.</u>
<u>Journeyman plumber registration.</u>	<u>\$50</u>		<u>No renewal, no reissuance.</u>
<u>Master fire suppression piping contractor (class A, B or C) license (certificate of competence).</u>	<u>\$200.</u>	<u>\$150 triennially.</u>	<u>Late-renewal fees: Up to 30 days late, \$50; From 31 days to five years late, \$100 for each year or part thereof. Reissuance fee: \$50.</u>
<u>Master fire suppression piping contractor (class A, B or C) license plate.</u>	<u>\$75.</u>	<u>\$100 triennially.</u>	<u>Replacement fee upon loss of plate, w/affidavit: \$100.</u>
<u>Master fire suppression piping contractor (class A, B or C) license seal.</u>	<u>\$50.</u>	<u>\$75 triennially.</u>	<u>Replacement fee upon loss of seal, w/affidavit: \$75.</u>
<u>Journeyman fire suppression piping contractor registration.</u>	<u>\$50</u>		<u>No renewal, no reissuance.</u>
<u>Oil-burning equipment installer. License (class A or B).</u>	<u>\$100.</u>	<u>\$75 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>High-pressure boiler operating engineer license.</u>	<u>\$50.</u>	<u>\$45 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Portable high-pressure boiler operating engineer license.</u>	<u>\$50.</u>	<u>\$45 triennially.</u>	<u>Renewal fee includes renewal fee for a hoisting machine operator license. Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Master sign hanger license.</u>	<u>\$100</u>	<u>\$75 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Special sign hanger license.</u>	<u>\$100</u>	<u>\$75 triennially.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Outdoor advertising company registration.</u>	<u>As provided by dept rules</u>	<u>As provided by dept rules.</u>	<u>As provided by dept rules.</u>
<u>Filing representative registration.</u>	<u>\$50</u>	<u>\$25 annually.</u>	<u>Late-renewal fee \$50. Reissuance fee: \$50.</u>
<u>Reinstatement of expired license, certificate of competence or certification without examination, if</u>	<u>Same as initial</u>		<u>\$100 for each year or part thereof from date of expiration.</u>

<u>approved by commissioner, in addition to applicable renewal fees.</u>	<u>license</u>		
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§28-401.16 Restrictions on use of license. No holder of a license issued under this chapter shall authorize, consent to or permit the use of his or her license by or on behalf of any other person, and no person who has not qualified and obtained or renewed a license under this chapter shall hold himself or herself out to the public as licensed, certified, registered or as the holder of a license issued under this chapter, either directly or indirectly, by means of signs, sign cards, plates, stationery, or in any other manner whatsoever.

§28-401.17 Use on behalf of a business. Except for such additional requirements as may be set forth for a particular license, nothing in this chapter shall be construed to prohibit the use of a license by the holder thereof for or on behalf of a partnership, corporation or other business association, provided that:

1. At least one member of the partnership or at least one officer of the corporation is licensed for the same business, trade or occupation, and that all work performed by such partnership or corporation is performed by or under the direct and continuing supervision of such license holder or holders;  
or
2. Such partnership, corporation or other business association is itself authorized to engage in such business as prescribed herein.

§28-401.17.1 Use on behalf of a city agency. Nothing in this chapter shall be construed to prohibit the holder of a license who is an employee of a city agency from using such license to practice the trade for which such license is issued for or on behalf of such city agency in the course of such employment except as otherwise limited pursuant to articles 408 and 410 of this chapter for licensed master plumber and licensed master fire suppression piping contractor licensees.

§28-401.18 New York city location required. Except as otherwise noted for a particular license, the holder of a license, other than an employee of a city agency, shall have or be employed by a business

entity that has an established place of business with an address within the city of New York at which such person can be contacted by the public and the department by mail, telephone or other modes of communication. A post office box is not an acceptable address.

§28-401.19 Suspension or revocation of license or certificate of competence. The commissioner shall have the power to suspend or revoke a license or certificate of competence and/or to impose a fine not to exceed twenty-five thousand dollars for each finding of violation, and/or to order any holder thereof to repair damage resulting from any act or omission as set forth in this chapter or in rules, for any of the following:

1. Fraud or deceit in obtaining or renewing a license, plate or seal, certificate of competence, certification, registration , or permit;
2. The making of a material false or misleading statement on any form or report filed with the department or other governmental entity;
3. The failure to file a statement, report or form required by law to be filed;
4. Willfully impeding or obstructing the filing of a statement, report or form of another required by law to be filed;
5. Fraudulent dealings;
6. Negligence, incompetence, lack of knowledge, or disregard of this code and related laws and rules;
7. Failure to comply with this code or any order, rule, or requirement lawfully made by the commissioner including failure to cooperate with investigations related to the trade for which the individual is licensed conducted by the commissioner or other government entity;
8. Failure to comply with any order, rule, regulation or requirement lawfully made by the commissioner of environmental protection or commissioner of transportation pertaining to water

services, house connections street openings, street/lane closures or sidewalk closures that relate to requirements of this code;

9. A practice or pattern of failing timely to perform or complete contracts relating to home improvements as defined by section 20-386 of the administrative code or a practice of abandoning contracts on residential buildings containing four dwelling units or less;

10. Failure to provide documents, including payroll records, workers compensation or other insurance documents, employee timekeeping records and corporate tax returns, required by the commissioner;

11. Engaging or assisting in any act that endangers the public safety and welfare;

12. Conviction of a criminal offense where the underlying act arises out of the individual's professional dealings with the city or any other governmental entity;

13. Poor moral character that adversely reflects on his or her fitness to conduct work regulated by this code; or

14. Failure to pay outstanding fines, penalties, or fees related to the individual's professional dealings with the city or any other governmental entity.

28-401.19.1 Notice and hearing. The commissioner shall not revoke or suspend a license or certificate of competence for any cause or impose any other sanction on a licensee unless and until the holder has been given at least five calendar days prior written notice and an opportunity to be heard. However, when the public safety may be imminently jeopardized the commissioner shall have the power, pending a hearing and determination of charges, to forthwith suspend any license for a period not exceeding five working days.

§28-401.19.2 Surrender of plate or seal. Upon surrender, suspension or revocation of a license for which the department has also issued a plate or seal, the license and such plate and/or seal shall be

immediately surrendered to the department.

§28-401.19.3 Reinstatement fees. The fees required for the reinstatement of a certificate of competence or license, plate or seal after suspension shall be the same as those required to obtain an original document. If reinstatement of the certificate of competence, license, plate or seal is not requested within 30 days of the lifting of the suspension, then late fees shall be imposed in accordance with article 119 of chapter 1 of this title.

§28-401.20 Cooperation required. Any person, including any corporation, partnership, business or other entity, issued a license or certificate of competence by the department shall, pursuant to a request or order of the commissioner or any other city agency or office, cooperate fully and completely with respect to any department or city agency or office investigation. Evidence of cooperation shall include, but is not limited to, appearing before the department or other city agency or office, answering questions completely and accurately, and providing any and all requested documents. Failure to comply with such request or order may subject such person to disciplinary measures authorized by law, including but not limited to suspension or revocation of the license or certificate of competence.

§28-401.20.1 Service of request or order. Such request or order by the commissioner or other city agency or office shall be mailed by regular mail to the person named therein to his or her last known business or home address at least ten days before such appearance and shall contain the name of the person, date, time and place of such appearance and, if known or applicable, a description of any requested documents. If the appearance or information is required immediately, the request or order may be transmitted via facsimile or delivered to the person's last known business or home address prior to the date and time specified therein.

§28-401.21 Judicial review of determinations. Notwithstanding any other provision of law to the contrary, decisions, orders and interpretations of the commissioner made pursuant to this chapter shall not

be subject to review by the board of standards and appeals. Final decisions and orders of the commissioner made pursuant to this chapter shall be subject to review pursuant to article 78 of the civil practice law and rules.

ARTICLE 402  
SITE SAFETY MANAGER CERTIFICATE

§28-402.1 Certificate required. It shall be unlawful to perform the duties and responsibilities of a site safety manager as specified in chapter 33 of the New York city building code unless such work is performed by a person certified as a site safety manager under the provisions of this article.

§28-402.2 Qualifications. All applicants for a site safety manager certificate shall submit satisfactory proof establishing that the applicant:

1. Is a registered design professional and has had three years of experience supervising major buildings as that term is defined in chapter 33, and within one year prior to application has satisfactorily completed a 8-hour course approved by the department;
2. Has eight years of construction supervision experience within the 10 years prior to application, including five years supervising major buildings as that term is defined in chapter 33, and within one year prior to application has satisfactorily completed a 40-hour course approved by the department;
3. Has completed an 18 month on-the-job training program working on major buildings as that term is defined in chapter 33 under the direct and continuing supervision of a certified site safety manager. Such on-the-job training program shall conform to rules promulgated by the department. The supervising site safety manager shall certify the trainee's satisfactory completion of the training program. In addition, the applicant shall provide proof that, within one year prior to the date of application, he or she has satisfactorily completed a 40-hour course approved by the department;

4. Has equivalent education and construction experience as determined by the department and within one year prior to application has satisfactorily completed a 40-hour course approved by the department; or
5. Has three years of experience as a certified site safety coordinator and within one year prior to application has satisfactorily completed a 40-hour course approved by the department.

ARTICLE 403  
SITE SAFETY COORDINATOR CERTIFICATE

§28-403.1 Certificate required. It shall be unlawful to perform the duties and responsibilities of a site safety coordinator as specified in chapter 33 of the New York city building code unless such work is performed by a person certified as a site safety coordinator under the provisions of this article.

§28-403.2 Qualifications. All applicants for a site safety coordinator certificate shall submit satisfactory proof establishing that the applicant:

1. Is a registered design professional and has had two years of experience supervising major buildings as that term is defined in chapter 33, and within one year prior to application has satisfactorily completed an 8-hour course approved by the department;
2. Has five years of construction supervision or construction safety experience within the 10 years prior to application, including three years supervising major buildings as that term is defined in chapter 33, and within one year prior to application has satisfactorily completed an 8-hour course approved by the department; or
3. Has equivalent education and construction experience as determined by the department and within one year prior to application has satisfactorily completed a 40-hour course approved by the department.

ARTICLE 404  
RIGGER LICENSE

§28-404.1 Rigger license required. It shall be unlawful to hoist or lower any article on the outside of any building in the city unless such work is performed by or under the direct and continuing supervision of a person licensed as a rigger under the provisions of this article. The provisions of this article shall apply to the erection or dismantling of a tower crane or a climber crane on a building and to the use of a derrick in their removal, except that such erection or dismantling may be performed by or under the direct and continuing supervision of a licensed climber or tower crane rigger in accordance with rules promulgated by the department.

Exception: The provisions of this article shall not apply to the hoisting or lowering of signs if the person so doing possesses a license as a sign hanger, as provided in this chapter, or to the loading or unloading of any building materials or equipment, other than boilers and tanks, from a delivery truck.

§28-404.2 Classification. Such licenses shall be classified as follows:

1. Master rigger license. Authorizes the holder thereof to hoist or lower any article, irrespective of weight, on the outside of any building.
2. Special rigger license. Authorizes the holder thereof to hoist or lower any article not exceeding 2,000 pounds (907 kg) in weight on the outside of any building.
3. Climber or tower crane rigger license. Authorizes the holder thereof to erect or dismantle a tower crane or a climber crane on a building and to use a derrick in their removal.

§28-404.3 Additional qualifications. Applicants for a rigger license shall have the additional qualifications as set forth in sections 28-404.3.1 through 28-404.3.3.

§28-404.3.1 Master rigger qualifications. All applicants for a master rigger license shall submit satisfactory proof establishing that the applicant:

1. Has had at least five years of practical experience in the hoisting and rigging business within

the seven years prior to application; and

2. Has knowledge of and is able to explain the risks incident to such business and precautions to be taken in connection therewith, safe loads and computation thereof, types of rigging, size and strength of ropes, cables, blocks, poles, derricks, sheerlegs and other tools used in connection with such business.

§28-404.3.2 Special rigger qualifications. All applicants for a special rigger license shall submit satisfactory proof establishing that the applicant:

1. Has had at least one year of practical experience in the hoisting and rigging business within the three years prior to application; and
2. Has knowledge of and is able to explain the risks incident to such business and precautions to be taken in connection therewith.

§28-404.3.3 Climber or tower crane rigger qualifications. All applicants for a climber or tower crane rigger license shall submit satisfactory proof establishing that the applicant:

1. Has had at least five years of practical experience in the climber or tower crane rigging business within the seven years prior to application; and
2. Has knowledge of and is able to explain the risks incident to such business and precautions to be taken in connection therewith, including connecting pins, cables, anchorage, platform or pad, plumb of mast, torque of bolts, supervision of rigging and hoisting of loads, placement of components, and coordination of sequencing.

§28-404.4 Additional requirements. The additional requirements set forth in sections 28-404.4.1 through 28-404.4.3 shall apply to riggers:

§28-404.4.1 Danger warning. Every licensed master or special rigger shall, while rigging operations are in progress at a job site, place, conspicuously, at such job site two plates or signs not less than 18

inches (457 mm) by 24 inches (610 mm) in size (i) displaying the word “danger” in letters not less than 6 inches (152 mm) high, and (ii) disclosing the rigger’s name, business address, type of rigger license and license number.

§28-404.4.2 Master rigger place of business. Every licensed master rigger shall have a place of business within the city and shall display prominently at such place of business a plate or sign marked with the words “master rigger” and his or her license number immediately thereunder.

§28-404.4.3. Fitness to perform work. As a condition of license renewal, a licensed master or special rigger shall provide evidence satisfactory to the department that such licensee is fit to perform the work.

#### ARTICLE 405 HOISTING MACHINE OPERATOR LICENSE

§28-405.1 Hoisting machine operator license required. It shall be unlawful for any persons to take charge of or operate any power-operated hoisting machine used for hoisting purposes or cableways under the jurisdiction of the department, except power-operated scaffolds and window-washing machines, unless such person is licensed under the provisions of this article or is a holder of a certificate of qualification as a hoisting machine operator issued prior to December 6, 1968 and not allowed to lapse.

Exceptions:

1. The commissioner may, by rule, exempt operators of mobile cranes of limited size and capacity from the requirements of this article.
2. The provisions of this article shall not apply to machines under one ton capacity.

§28-405.2 Classification. Hoisting machine operator licenses shall be classified as follows:

1. Class A license: Basic license to operate cranes with total boom less than 200 feet (60 960 mm) in length, derricks and cableways, excluding truck-mounted tower cranes that exceed 200 feet (60 960 mm) in height.

2. Class B license: Endorsement on basic license to include the operation of hoisting machinery without limitation or restriction.

3. Class C license: Special hoisting machine operator license to operate a specified class of hoisting machine of limited size and capacity as follows:

Class C1: License to operate wheel mounted cranes (single control station) with telescoping, hydraulic or folding booms, including jibs and any other extensions to the boom, not exceeding 200 feet in length (60 960 mm) with a manufacturer's rated capacity of 50 tons (51 t) or less;

Class C2: License to operate boom trucks with telescoping, hydraulic or folding booms, including jibs and any other extensions to the boom, not exceeding 200 feet (60 960 mm) in length with a manufacturer's rated capacity of 50 tons (51 t) or less;

Class C3: License to operate boom trucks with telescoping, hydraulic or folding booms, including jibs and any other extensions to the boom, not exceeding 135 feet (41 148 mm) in length with a manufacturer's rated capacity of three tons or less, used exclusively for the erection, maintenance or removal of signs.

§28-405.3 Additional qualifications. Applicants for a hoisting machine operator license shall have the following additional qualifications.

§28-405.3.1 Class A license. All applicants for a class A basic hoisting machine operator license shall have had at least three years experience within the five years prior to application under the direct and continuing supervision of a licensed hoisting machine operator.

§28-405.3.2 Class B license. All applicants for a class B hoisting machine operator license shall hold a class A basic hoisting machine operator license, and shall have had at least two years experience prior to application under the direct and continuing supervision of a Class B licensed hoisting machine

operator operating the equipment for which they are applying for endorsement and shall satisfactorily demonstrate by operation that they are competent to operate a crane with a boom, including jibs and other extensions, exceeding 200 feet (60 960 mm) in length or truck-mounted tower crane exceeding 200 feet (60 960 mm) in height, or as otherwise provided in rules of the department.

§28-405.3.3 Class C license. All applicants for a class C special hoisting machine operator license shall have had at least two years experience within the three years prior to application under the direct and continuing supervision of a licensed hoisting machine operator and have satisfactorily passed a practical examination in the operation of equipment for which such license is to be issued.

§28-405.4 Fitness to perform work. As a condition of license renewal, a licensed hoisting machine operator shall provide evidence satisfactory to the department that he or she is fit to perform the work.

§28-405.5 Insurance exemption: Unless otherwise required by rule, licensed hoisting machine operators are exempt from the insurance requirements of section 28-401.9.

#### ARTICLE 406 CONCRETE TESTING LABORATORY LICENSE

§28-406.1 Concrete testing laboratory license required. Testing of concrete required by this code or other applicable laws or rules shall be conducted by a concrete testing laboratory licensed in accordance with this article.

§28-406.2 Qualifications. All applicants for a concrete testing laboratory license shall maintain a laboratory within 50 miles (80 467 m) of the city and shall submit satisfactory proof establishing that the business is conducted by qualified personnel in accordance with procedures, safety requirements and professional standards as set forth in rules of the department. The department shall inspect an applicant's place of business and equipment and conduct an investigation of applicant's personnel in a manner to be set forth in department rules prior to the issuance or renewal of a license.

§28-406.3 Additional requirements. The following additional requirements shall apply to concrete testing

laboratories:

§28-406.3.1 Director. Each laboratory shall have in responsible charge a director who shall be a registered design professional and who shall personally supervise all technical functions of the laboratory relating to testing of concrete and concrete materials as required in this code and in rules of the department.

§28-406.3.2 Certification of reports by director. The director shall certify the truth and accuracy of all reports filed by the laboratory under the provisions of this code or other applicable laws and rules.

§28-406.4 No examination required. An examination shall not be required for a concrete testing laboratory license.

#### ARTICLE 407 WELDER LICENSE

§28-407.1 Welder license required. It shall be unlawful to perform manual welding work on any structural member of any building in the city unless such work is performed by a person licensed as a welder under the provisions of this article.

§28-407.2 Qualifications. All applicants for a welder license shall submit satisfactory proof of the applicant's fitness to make structural welds, including his or her ability to pass operator qualification tests as determined by the commissioner.

§28-407.3 Fitness to perform work. As a condition of license renewal, a licensed welder shall provide evidence satisfactory to the department that such licensee is fit to perform the work.

§28-407.4 Insurance exemption. Unless otherwise required by rule, licensed welders are exempt from the insurance requirements of section 28-401.9.

#### ARTICLE 408 MASTER PLUMBER LICENSE

§28-408.1 Master plumber license required. It shall be unlawful for any person:

1. To perform plumbing work unless such person is a licensed master plumber or working under the direct and continuing supervision of a licensed master plumber except that a city employee who holds a master plumber license may only perform replacement, maintenance and repair plumbing work on existing buildings in the course of his or her employment.
2. To use the title licensed master plumber, master plumber or any other title in such manner as to convey the impression that such person is a licensed master plumber unless such person is licensed as such in accordance with the provisions of this article.

§28-408.2 Seal. All documents that are required to be filed with any department or agency of the city of New York shall bear the stamp of the seal as well as the signature of the licensee. The licensed master plumber performing the work and services shall personally sign and seal all applications and other documents required to be filed pursuant to this code.

§28-408.3 Additional qualifications. Applicants for a master plumber license shall have the following additional qualifications:

§28-408.3.1 Experience. All applicants for a master plumber license shall submit satisfactory proof establishing that the applicant:

1. Has had at least seven years total experience within the 10 years prior to application in the design and installation of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States, with at least two years of such experience as a registered journeyman plumber in accordance with the provisions of article 409, except that during the three years immediately following the effective date of this code there shall be no requirement for such registered journeyman plumber experience;
2. Has received a bachelor's degree in engineering or appropriate engineering technology from an accredited college or university and has had at least five years total experience within the

seven years prior to application in the design and installation of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States, where at least two years of such experience were in New York city;

3. Is an architect or engineer with at least three years of experience within the five years prior to application in the design and installation of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States, where at least one year of such experience was in New York city; or

4. Has had at least seven years total experience within the 10 years prior to application, with at least two years of such experience working in the design and installation of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States. The balance of such required experience may be obtained by performing maintenance, replacement and repair plumbing work on existing buildings while in the employ of a city agency under the direct and continuing supervision of a licensed master plumber supervisor employed by the city agency. Three years after the effective date of this code the two years experience in the design and installation of plumbing systems set forth above may only be satisfied by working as a registered journeyman plumber.

5. An employee of a government agency, private inspection agency or other entity, acceptable to the commissioner, whose duties primarily involve the inspection of plumbing work for compliance with the New York city plumbing code and/or other laws relating to the installation, alteration or repair of plumbing systems shall be credited with fifty percent (50%) of the number of years that he or she has been satisfactorily employed in such duties within the ten (10) year period prior to application, which, however, in no event, shall exceed two and one-half (2 1/2) years credit of satisfactory experience. The balance of the required seven years

must have been obtained by working in the design and installation of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States except that the requirement of paragraph 1 of this section 28-408.3.1 that an applicant's working experience must have been within the ten (10) year period prior to application shall not apply to such balance of the work experience required pursuant to this paragraph.

§28-408.3.2 Armed services. Applicants who were engaged in plumbing work as above provided prior to entering the armed services of the United States shall be permitted to credit their time in the service as experience in the plumbing business, as above provided; but such service credit shall not exceed one-third of the time required for experience.

§28-408.4 Certificate of competence and license, plate and/or seal. The commissioner shall issue a certificate of competence, license, plate, and/or seal, in accordance with the following:

§28-408.4.1 Certificate of competence. A certificate of competence shall be issued by the commissioner to an applicant who satisfactorily complies with the experience and examination requirements of this chapter for a license, upon payment of the fee. Such certificate shall contain the full name of the individual and a certificate number, the date of issuance, and shall be signed by the commissioner.

§28-408.4.2 Effect of issuance. The issuance of a certificate of competence shall constitute evidence that the person named therein is qualified upon payment of applicable fees to obtain a plate and seal while the certificate is valid except that a city employee while in the employ of the city shall only be entitled to obtain a seal.

§28-408.4.3 Plate and/or seal required. The holder of a certificate shall not be entitled to perform work or hold himself or herself out to perform work as a licensed master plumber until such plate and/or seal have been obtained. Further, no holder of a certificate of competence shall enter into any

contractual agreement to install or alter any plumbing, gas piping, or any piping system, other than an employment agreement with a master plumber business or a city agency.

§28-408.4.4 Effect of failure to obtain plate and/or seal. If a holder of a certificate of competence has held the certificate for five years without a plate and/or seal, then the commissioner may require said person to submit an affidavit and supporting documentation satisfactory to the department stating that over the five-year period the individual has been engaged in the design and installation of plumbing systems in the United States under the direct and continuing supervision of a licensed master plumber. If the holder's qualifications are not satisfactory to the commissioner, the commissioner may require such person to submit to reexamination or to provide evidence of retained proficiency. In addition, additional fees will be due as set forth in this chapter.

§28-408.4.5 Requirement for obtaining plate and /or seal. A holder of a certificate of competence shall obtain:

1. A license, plate and seal upon establishing a master plumbing business conforming to the requirements of this article and rules promulgated by the department; or
2. A license and seal upon demonstrating employment with a city agency. The license shall clearly state: "The bearer of this master plumber license is a government employee and as such is not authorized to engage in plumbing contract work outside of his/her government employment and within such government employment shall only engage in maintenance, replacement and repair plumbing work on existing buildings." No plate shall be issued to a licensed master plumber employed by a city agency.

§28-408.4.6 Issuance. A certificate of competence or a license, plate, and/or seal as a master plumber shall be issued only to an individual.

§28-408.4.7 Duplication prohibited. Not more than one license, plate and/or seal shall be issued to an

individual and no individual shall make or cause to be made a duplicate of such license, plate or seal.

§28-408.5 Surrender of license, plate or seal. Upon the death or the retirement of a licensed master plumber, or upon the surrender, revocation or suspension of his or her license, his or her license, plate and/or seal shall immediately be surrendered to the commissioner. Nothing contained herein shall be construed to prevent the legal representative of a deceased licensee, with the consent of the commissioner, from retaining such plate and seal for the purpose of completing all unfinished work of the deceased licensee for which plans have been approved and a permit issued, provided such work is performed by or under the direct and continuing supervision of a licensed master plumber and is completed within one year from the date of the death of the original licensee.

§28-408.6 Master plumber business. No individual, corporation, partnership or other business association shall conduct a plumbing contracting business in the city of New York, or employ the name “plumber” or “plumbing” in its business name unless such business is a master plumber business as follows:

1. No less than 51 percent of the control and voting capital stock of such entity is owned by one or more individuals who are licensed master plumbers, except as otherwise provided;
2. All plumbing or gas piping work performed by such entity is performed by or under the direct and continuing supervision of such licensed master plumber;
3. The person in charge of such work is such licensed master plumber; and
4. The persons actually performing such work are in the direct employ of such master plumber business as authorized by the code.

Exception: A company, corporation, partnership or other business association or its predecessor that was engaged in plumbing work prior to January 25, 1990 may continue to do so in any one or more of such business forms without complying with the foregoing, if (i) application was made to the department prior to July 25, 1990, and (ii) necessary evidence was furnished on or prior to January 25, 1991, that such

company, corporation, partnership or other business association or its predecessor had employed an average of ten or more journeymen plumbers doing plumbing work for at least five days a week for a period of 10 years or more out of the twenty years preceding July 25, 1990, provided, that such plumbing business continues to have all plumbing work conducted under the management and direct and continuing supervision of a licensed master plumber in the direct employ of such plumbing business and that such licensed master plumber is not otherwise interested in, associated with or employed by any other plumbing business operating in this city except as a joint venture in which such master plumber's employer is one of the joint venturers.

§28-408.6.1 Use. Nothing herein contained shall be construed to prohibit the use of a master plumber license by the holder thereof for or on behalf of a partnership, corporation or other business association provided that such partnership, corporation or other business is a master plumber business.

§28-408.6.2 Identification. All business vehicles, advertising, websites and stationery used in connection with a master plumber business shall display prominently the full name of the licensee, the words "N.Y.C. licensed plumber," the licensee's number and the licensee's business address. If the business is conducted under a trade name, or by a partnership or corporation, the trade name, partnership or corporate name shall be placed immediately above the full name or names of the licensed master plumber or licensed master plumbers to whom the plates were issued.

§28-408.6.3 Withdrawal of license. If a licensed master plumber withdraws from a master plumbing business operating pursuant to such individual's license, the right of the business to perform plumbing work shall lapse if the provisions of this section 28-408.6 are no longer satisfied. If a licensed master plumber's license is revoked or suspended, such licensee will be deemed withdrawn from such business.

§28-408.6.4 Ownership limitations. An individual who is a licensed master plumber whose interest or

ownership in a master plumber business constitutes any portion of the 51 percent interest or control required by this section 28-408.6 shall be prohibited from possessing an interest or ownership in more than one other master plumber business at his or her established place of business, where such interest or ownership would constitute any portion of the 51 percent interest or control required by this section 28-408.6. Both master plumber businesses in which the individual who is a licensed master plumber has an interest shall be located at the same place of business. For the purposes of this section 28-408.6, where two or more individuals who are licensed master plumbers possess an interest or ownership in any master plumber business which together represents more than 51 percent of the interest or control of such entity, all of such licensees shall be deemed to possess a portion of the 51 percent interest or control required by this section 28-408.6.

§28-408.6.5 Joint ventures. Nothing contained in this section 28-408.6 shall be construed to prevent a master plumber business from entering into a joint venture of limited duration for a particular project with another master plumber business. The terms of a joint venture must be in writing, and documentation of the joint venture must be submitted to the department for approval prior to the initiation of work under such venture.

§28-408.6.6 Supervision. The master plumber shall conduct his or her business to provide direct and continuing supervision in accordance with the provisions of this code.

Exception: The provisions of this section 28-408.6.6 shall not apply to minor alterations or ordinary repairs, as defined in this code, or to the installation or alteration of gas service piping and gas meter piping, including meters, valves, regulators or related equipment, when such work is to be performed, serviced and maintained by utility corporations subject to the jurisdiction of the New York state public service commission.

ARTICLE 409  
JOURNEYMAN PLUMBER REGISTRATION

§28-409.1 Journeyman plumber registration; additional qualifications. Upon satisfactory completion of a New York State-recognized training program or affirmation of an applicant's qualifications by an employer licensed master plumber or, in the case of a city agency, a supervising licensed master plumber and upon written stipulation of same by the applicant, the commissioner shall register an applicant as journeyman plumber. Such qualifications shall reflect a progressive understanding, proficiency and competence in the plumbing trade, including:

1. A working familiarity with the plumbing code and technical standards and the ability to apply the code requirements correctly;
2. The application of basic plumbing theory and the utilization of trade skills on the job site;
3. A working knowledge of the tools of the trade and the ability to utilize them properly; and
4. An ability to draft simple diagrams and interpret from drawings for the purpose of the plumbing work in which the applicant is engaged.

§28-409.2 Experience. The applicant for journeyman plumber registration shall have a minimum of five years of full-time experience in the performance of plumbing work under the direct and continuing supervision of a licensed master plumber or equivalent, where at least one year of such experience shall have been in New York city.

§28-409.3 Registration need not be renewed. The registration for journeyman plumber shall have no expiration and shall not require renewal or re-issuance.

§28-409.4 Registration card. The registration card shall clearly state: "This registration is NOT A LICENSE, and the holder is NOT AUTHORIZED TO PERFORM PLUMBING WORK in New York city except under the direct and continuing supervision of a licensed master plumber."

ARTICLE 410  
MASTER FIRE SUPPRESSION PIPING CONTRACTOR LICENSE

§28-410.1 Master fire suppression piping contractor license required. It shall be unlawful for any person:

1. To perform fire suppression piping work unless such person is a licensed master fire suppression piping contractor or working under the direct and continuing supervision of a licensed master fire suppression piping contractor except that a city employee who holds a license may only perform replacement, maintenance and repair fire suppression piping work on existing buildings in the course of his or her employment.
2. To use the title licensed master fire suppression piping contractor, master fire suppression piping contractor or any other title in such manner as to convey the impression that such person is a licensed master fire suppression piping contractor unless such person is licensed as such in accordance with the provisions of this article.

§28-410.2 Seal. All documents that are required to be filed with any department or agency of the city of New York shall bear the stamp of the seal as well as the signature of the licensee. The licensed master fire suppression piping contractor performing the work and services shall personally sign and seal all applications and other documents required to be filed pursuant to the code.

§28-410.3 Classification. There shall be three classes of licenses for master fire suppression piping contractor:

1. Class A. The holder of a class A master fire suppression piping contractor license is authorized to perform any work in connection with any and all fire suppression piping systems as set forth in paragraphs 1 and 2 of the definition of fire suppression piping system in section 28-401.3.
2. Class B. The holder of a class B master fire suppression piping contractor license is authorized to perform any work in connection with any and all fire suppression piping systems as set forth in paragraph 1 of the definition of fire suppression piping system in section 28-401.3.

3. Class C. The holder of a class C master fire suppression piping contractor license is authorized to perform any work in connection with any and all fire suppression piping systems as set forth in paragraph 2 of the definition of fire suppression piping system in section 28-401.3.

§28-410.4 Additional qualifications. Applicants for a master fire suppression piping contractor license shall have the following additional qualifications:

§28-410.4.1 Experience. All applicants for a master fire suppression piping contractor license shall submit satisfactory proof establishing that the applicant:

1. Has had at least seven years total experience within the 10 years prior to application in the design and installation of fire suppression piping systems under the direct and continuing supervision of a licensed master fire suppression piping contractor in the United States with the class of license for which application is made, with at least two years of such experience as a registered journeyman fire suppression piping installer in accordance with the provisions of article 411, except that during the three years immediately following the effective date of this code there shall be no requirement for such registered journeyman fire suppression piping installer experience;
2. Has received a bachelor's degree in engineering or appropriate engineering technology from an accredited college or university and has had at least five years total experience within the seven years prior to application in the design and installation of fire suppression piping systems under the direct and continuing supervision of a licensed master fire suppression piping contractor in the United States for the class of license for which application is made, at least two of which were in New York city;
3. Is an architect or engineer with at least three years of experience within the five years prior to application in the design and installation of fire suppression piping systems in the United States

for the class of license for which application is made, where at least one year of such experience was in New York city; or

4. Has had at least seven years total experience within the 10 years prior to application, with at least two years of such experience working in the design and installation of fire suppression piping systems under the direct and continuing supervision of a licensed master fire suppression piping contractor in the United States with the class of license for which application is made. The balance of such required experience may be obtained by performing maintenance, replacement and repair of fire suppression piping work on existing buildings while in the employ of a city agency under the direct and continuing supervision of a licensed master fire suppression piping contractor supervisor employed by the city agency with the class of license for which application is made. Three years after the effective date of this article the two years of experience in the design and installation of fire suppression piping systems set forth above may only be satisfied by working as a registered journeyman fire suppression piping installer.
5. An employee of a government agency, private inspection agency or other entity, acceptable to the commissioner, whose duties primarily involve the inspection of plumbing work for compliance with this the New York city plumbing code and/or other laws relating to the installation, alteration or repair of fire suppression piping systems shall be credited with fifty percent (50%) of the number of years that he or she has been satisfactorily employed in such duties within the ten (10) year period prior to application, which, however, in no event, shall exceed two and one-half (2½) years credit of satisfactory experience. The balance of the required seven years must have been obtained by working in the design and installation of fire suppression piping systems under the direct and continuing supervision of a licensed fire

suppression piping contractor in the United States except that the requirement of paragraph 1 of this section 28-410.4.1 that an applicant's working experience must have been within the ten (10) year period prior to application shall not apply to such balance of the work experience required pursuant to this paragraph.

§28-410.4.2 Armed services. Applicants who were engaged in fire suppression piping work prior to entering the armed services of the United States shall be permitted to credit their time in the service as experience in the fire suppression piping business, as above provided; but such service credit shall not exceed one-third of the time required for experience.

§28-410.5 Certificate of competence and license, plate and/or seal. The commissioner shall issue a certificate of competence, license, plate and/or seal in accordance with the following:

§28-410.5.1 Certificate of competence. A certificate of competence shall be issued by the commissioner to an applicant who satisfactorily complies with the experience and examination requirements of this article for a license, upon payment of the fee. Such certificate shall contain the full name of the individual and a certificate number, and shall be signed by the commissioner.

§28-410.5.2 Effect of issuance. The issuance of a certificate of competence shall constitute evidence that the person named therein is qualified upon payment of applicable fees to obtain a plate and seal while the certificate is valid except that a city employee while in the employ of the city shall only be entitled to obtain a seal.

§28-410.5.3 Plate and /or seal required. The holder of a certificate of competence shall not be entitled to perform work or hold himself or herself out to perform work as a licensed master fire suppression piping contractor until such plate and/or seal have been obtained. Further, no holder of a certificate of competence shall enter into any contractual agreement to install or alter any fire suppression piping system other than an employment agreement with a master fire suppression piping business or a city

agency.

§28-410.5.4 Failure to obtain plate and/or seal. If a holder of a certificate of competence has held the certificate for five years without a plate and/or seal, then the commissioner may require said person to submit an affidavit and supporting documentation satisfactory to the department stating that over the five-year period the individual has been engaged in the design and installation of fire suppression piping systems in the United States under the direct and continuing supervision of a licensed master fire suppression piping contractor. If the holder's qualifications are not satisfactory to the commissioner, the commissioner may require such person to submit to reexamination or to provide evidence of retained proficiency. In addition, additional fees will be due as set forth in this chapter.

§28-410.5.5 License plate and/or seal. A holder of a certificate of competence or an applicant who has satisfied all requirements for a master fire suppression piping contractor license shall obtain:

1. A license, plate and seal upon establishing a fire suppression piping contracting business conforming to the requirements of this article and any rules promulgated by the department; or
2. A license and seal upon demonstrating employment with a city agency. The license shall clearly state: "The bearer of this master fire suppression piping contractor license is a government employee and as such is not authorized to engage in fire suppression piping contract work outside of his/her government employment and within such government employment shall only engage in maintenance, replacement and repair fire suppression piping work on existing buildings." No plate shall be issued to a licensed master fire suppression piping contractor employed by a city agency.

§28-410.5.6 Issuance. A certificate of competence or a license, plate and/or seal as a master fire suppression piping contractor shall be issued only to an individual.

§28-410.5.7 Duplication prohibited. Not more than one license, plate and/or seal shall be issued to an

individual, and no individual shall make or cause to be made a duplicate of such license, plate or seal.

§28-410.6 Waiver of examinations. Any license issued without examination pursuant to an application filed prior to July 25, 1990 pursuant to the provisions of law in effect prior to the effective date of this code that has not lapsed as of the effective date of this code, shall be renewable pursuant to the provisions of this code.

§28-410.7 Surrender of license, plate and/or seal. Upon the death or the retirement of a licensed master fire suppression piping contractor, or upon the surrender, revocation or suspension of his or her license, his or her license, plate and seal shall immediately be surrendered to the commissioner. Nothing contained herein shall be construed to prevent the legal representative of a deceased licensee, with the consent of the commissioner, from retaining such plate and seal for the purpose of completing all unfinished work of such deceased licensee for which plans have been approved and a permit issued, provided such work is performed by or under the direct and continuing supervision of a licensed master fire suppression piping contractor and is completed within one year from the date of the death of the original licensee.

§28-410.8 Master fire suppression piping contractor business required. No individual, corporation, partnership or other business association shall conduct a fire suppression piping contracting business in the city of New York, or employ the name “fire suppression piping” in its business name, unless the business is a master fire suppression business as follows:

1. No less than 51 percent of the control and voting capital stock of such entity is owned by one or more individuals who are licensed master fire suppression piping contractors, except as otherwise provided; and
2. All fire suppression piping work performed by such entity is performed by or under the direct and continuing supervision of such licensed master fire suppression piping contractor;
3. The person in charge of such work is such licensed master fire suppression piping contractor; and

4. The persons actually performing such work are in the direct employ of such master fire suppression piping contractor business as authorized by the code.

Exception: A company, corporation, partnership or other business association or its predecessor that was engaged in fire suppression piping contractor work prior to January 25, 1990 may continue to do so in any one or more of such business forms without complying with the foregoing, if (i) application was made to the department prior to July 25, 1990, and (ii) necessary evidence was furnished on or prior to January 25, 1991, that such company, corporation, partnership or other business association or its predecessor had employed an average of 10 or more journeymen doing fire suppression piping contractor work for at least five days a week for a period of ten years or more out of the 20 years preceding July 25, 1990, provided, that such business continues to have all fire suppression piping contractor work conducted under the management and direct and continuing supervision of a licensed master fire suppression contractor in the direct employ of such business and that such licensed master fire suppression contractor is not otherwise interested in, associated with or employed by any other licensed master fire suppression contracting business operating in this city except as a joint venture in which such licensed master fire suppression contractor's employer is one of the joint venturers.

§28-410.8.1 Use. Nothing herein contained shall be construed to prohibit the use of a master fire suppression piping contractor license by the holder thereof for or on behalf of a partnership, corporation or other business association provided that such partnership, corporation or other business is a master fire suppression piping contractor business.

§28-410.8.2 Identification. All business vehicles, advertising, websites and stationery used in connection with a master fire suppression piping contractor business shall display prominently the full name of the licensee, the words "N.Y.C. licensed fire suppression piping contractor – class A, B or C," the licensee's number and the licensee's business address. If the business is conducted under a trade

name, or by a partnership or corporation, the trade name, partnership or corporate name shall be placed immediately above the full name or names of the licensed master fire suppression piping contractor or licensed master fire suppression piping contractors to whom the plates were issued.

§28-410.8.3 Withdrawal of licensee. If a licensed master fire suppression piping contractor withdraws from a master fire suppression piping contractor business operating pursuant to such individual's license, the right of the business to perform fire suppression piping work shall lapse if the provisions of this article are no longer satisfied. If a licensed master fire suppression piping contractor's license is revoked or suspended, such licensee will be deemed withdrawn from such business.

§28-410.8.4 Ownership limitations. An individual who is a licensed master fire suppression piping contractor whose interest or ownership in a master fire suppression piping contractor business constitutes any portion of the 51 percent interest or control required by this section 28-410.8 shall be prohibited from possessing an interest or ownership in more than one other fire suppression piping contractor business at his or her established place of business where such interest or ownership would constitute any portion of the 51 percent interest or control required by this section 28-410.8. Both fire suppression piping contractor businesses in which the individual who is a licensed master fire suppression piping contractor has an interest shall be located at the same place of business. For the purposes of this section 28-410.8, where two or more individuals who are licensed master fire suppression piping contractors possess an interest or ownership in any master fire suppression piping contractor business which together represents more than fifty-one percent of the interest or control of such entity, all of such licensees shall be deemed to possess a portion of the 51 percent interest or control required by this section 28-410.8.

§28-410.8.5 Joint ventures. Nothing contained in this section 28-410.8 shall be construed to prevent a master fire suppression piping contractor business from entering into a joint venture of limited

duration for a particular project with another master fire suppression piping contractor business. The terms of a joint venture must be in writing, and documentation of the joint venture must be submitted to the department for approval prior to the initiation of work under such venture.

§28-410.8.6 Supervision. The master fire suppression piping contractor shall conduct his or her business to provide direct and continuing supervision in accordance with the provisions of this article.

Exception: The provisions of this section 28-410.8.6 shall not apply to minor alterations or ordinary repairs, as defined in this code, and/or to maintenance of a fire suppression piping system.

#### ARTICLE 411 JOURNEYMAN FIRE SUPPRESSION PIPING INSTALLER REGISTRATION

§28-411.1 Journeyman fire suppression piping installer registration; additional qualifications. Upon satisfactory completion of a New York state-recognized training program or affirmation of an applicant's qualifications by an employer licensed master fire suppression piping contractor or, in the case of a city agency, a supervising licensed master fire suppression piping contractor and upon written stipulation of same by the applicant, the commissioner shall register an applicant as journeyman fire suppression piping installer. Such qualifications shall reflect a progressive understanding, proficiency and competence in the fire suppression piping trade, including:

1. A working familiarity with the code and technical standards with regard to fire suppression piping, and the ability to apply the code requirements correctly;
2. The application of basic fire suppression theory and the utilization of trade skills on the job site;
3. A working knowledge of the tools of the trade and the ability to utilize them properly; and
4. An ability to draft simple diagrams and interpret from drawings for the purpose of the fire suppression piping work in which the applicant is engaged.

§28-411.2 Experience. The applicant for journeyman fire suppression piping installer registration shall

have a minimum of five years of full-time experience in the performance of fire suppression piping work under the direct and continuing supervision of a licensed master fire suppression piping contractor or equivalent, where at least one year of such experience shall have been in New York city.

§28-411.3 The registration for journeyman fire suppression piping installer shall have no expiration and shall not require renewal or reissuance.

§28-411.4 The registration shall clearly state: “This registration is NOT A LICENSE, and the holder is NOT AUTHORIZED TO PERFORM FIRE SUPPRESSION PIPING WORK in New York city except under the direct and continuing supervision of a Licensed Master Fire Suppression Piping Contractor.”

#### ARTICLE 412 OIL-BURNING EQUIPMENT INSTALLER LICENSE

§28-412.1 Oil-burning equipment installer license required. It shall be unlawful to install oil-burning equipment in the city unless such work is performed by or under the direct and continuing supervision of a person licensed as an oil-burning equipment installer under the provisions of this article.

§28-412.2 Classifications. Oil-burning equipment installer licenses shall be classified as follows:

1. Class A oil-burning equipment installer license. Licenses the holder thereof to install any type of oil-burning equipment, as an independent contractor with full responsibility for the manner in which the work is done, and for the material and equipment used, and for the control and direct and continuing supervision of the persons employed on the work. Such equipment shall include but not be limited to burners, boilers and generators.
2. Class B oil-burning equipment installer license. Licenses the holder thereof to install oil-burning equipment for the use of domestic fuel oils from number one fuel oil to and including number four fuel oil, as an independent contractor with full responsibility for the manner in which the work is done, for the materials and equipment used, and for the control and direct and continuing supervision of the persons employed on the work.

§28-412.3 Qualifications. Applicants for an oil-burning equipment installer license shall have the qualifications set forth in sections 28-412.3.1 through 28-412.3.2.

§28-412.3.1 Experience for Class A license. All applicants for a class A oil-burning equipment installer license shall submit satisfactory proof establishing that the applicant has had at least four years practical experience within the seven years prior to application in the installation of oil-burning equipment under the direct and continuing supervision of a Class A-licensed oil-burning equipment installer in the city, including at least one year experience in the installation of oil-burning equipment for the use of number five and number six fuel oils.

§28-412.3.2 Experience for class B license. All applicants for a class B oil-burning equipment installer license shall submit satisfactory proof establishing that the applicant has had at least three years practical experience within the five years prior to application in the installation of oil-burning equipment under the direct and continuing supervision of a licensed oil-burning equipment installer in the city.

§28-412.4 Fitness to perform work. As a condition of license renewal, a licensed oil burning equipment installer shall provide evidence satisfactory to the department that such licensee is fit to perform the work.

ARTICLE 413  
HIGH-PRESSURE BOILER OPERATING ENGINEER LICENSE

§28-413.1 High-pressure boiler operating engineer license required. It shall be unlawful to operate any high-pressure steam boiler for any purpose whatsoever, in the city of New York or in connection with any vessel on the waters in and around the city not subject to the jurisdiction of the United States, unless such boiler is operated by or under the direct and continuing supervision and in the presence of a person having a high-pressure boiler operating engineer license under the provisions of this article.

§28-413.2 Qualifications. Applicants for a high-pressure boiler operating engineer license shall present satisfactory proof that:

1. Applicant was employed as a fireman, oiler, general assistant, journeyman, boiler-maker or machinist under the direct and continuing supervision of a licensed high-pressure boiler operating engineer in the city for a period of not less than five years within the seven year period preceding the date of the application; however, in lieu of the experience requirement contained in this paragraph, an applicant for a high-pressure boiler operating engineer license who is employed in a fossil fuel production plant located in the Rockaway Peninsula area of Queens county may submit satisfactory proof establishing that the applicant has obtained at least five years experience within the seven years preceding the date of the application which shall include at least two years of experience obtained during employment under the direct and continuing supervision of a licensed high-pressure boiler operating engineer in a steam generating plant located outside of the city of New York but within the state of New York that is owned and operated by a licensed public utility company, and shall also include a separate period of at least three years of experience obtained during employment as a fireman, oiler, general assistant, journeyman, boiler-maker or any comparable position as approved by the commissioner, in such steam generating plant;
2. Applicant received a degree in mechanical engineering from an accredited school or college and had one year experience in the operation and maintenance of high-pressure boilers under the direct and continuing supervision of a licensed high-pressure boiler operating engineer in the city within the two year period preceding the date of the application;
3. Applicant has held, for a minimum of four years, a certificate as an engineer issued by a board of examining engineers duly established and qualified pursuant to the laws of the United States or any state or territory thereof, or a certificate as a marine engineer issued by the United States Coast Guard, and a minimum of one year experience in the city in the operation and maintenance of stationary high-pressure boiler plants under the direct and continuing supervision of a licensed

high-pressure boiler operating engineer within the seven years preceding the date of the application, provided that the applicant shall have filed with such application a signed statement that the applicant is the person named in said certificate together with the supporting signed statements by three licensed high-pressure boiler operating engineers employed in the city of New York at the time of making of such signed statements;

4. Applicant exercised direct and continuing supervision, care, operation and maintenance over a steam generating plant of a governmental building, having boilers of 150 or more horsepower, for a minimum of five years and had a minimum of one year of experience on high-pressure boilers under the direct and continuing supervision of a licensed high-pressure boiler operating engineer in the city within the seven year period preceding the date of the application; or

5. Applicant successfully completed a New York state approved apprenticeship training program of at least two years and had at least three years experience within the seven years preceding the date of the application in the operation and maintenance of high-pressure boilers in the city under the direct and continuing supervision of a licensed high-pressure boiler operating engineer.

§28-413.3 Fitness to perform work. As a condition of license renewal, a licensed high-pressure boiler operating engineer shall provide evidence satisfactory to the department that such licensee is fit to perform the work.

#### ARTICLE 414 PORTABLE HIGH-PRESSURE BOILER OPERATING ENGINEER LICENSE

§28-414.1 Portable high-pressure boiler operating engineer license required. It shall be unlawful to operate a portable high-pressure steam boiler for any purpose whatsoever in the city of New York unless such boiler is operated by or under the direct and continuing supervision and in the presence of a person licensed as a portable high-pressure boiler operating engineer.

§28-414.2 Qualifications. Applicants for a portable high-pressure boiler operating engineer license shall

present satisfactory proof that applicant held a basic license as a hoisting machine operator as provided in this chapter for a minimum of three years within the five year period preceding the date of the application; and served as a fireman, oiler, assistant engineer or engineer on portable high-pressure boilers for a minimum of three years within the seven year period preceding the date of the application at least one year on portable high pressure boilers within the city under the direct and continuing supervision of a licensed portable high-pressure boiler operating engineer.

§28-414.3 Fitness to perform work. As a condition of license renewal, a licensed portable high-pressure boiler operating engineer shall provide evidence satisfactory to the department that such licensee is fit to perform the work.

#### ARTICLE 415 SIGN HANGER LICENSE

§28-415.1 Sign hanger license required. It shall be unlawful to hoist or lower or to hang or attach any sign upon or on the outside of any building in the city unless such work is performed by or under the direct and continuing supervision of a person licensed as a sign hanger under the provisions of this article.

§28-415.2 Exemptions. The provisions of this article shall not apply to the following:

1. Signs not exceeding 75 square feet (7 m<sup>2</sup>) in area, measured on one face only, nor exceeding 25 pounds (11 kg) in weight;
2. Signs supported directly on the ground; or
3. Directional signs; or
4. Temporary signs erected during the construction or alteration of a building and related to such work; or
5. The erection or placing of any signs by employees of the city, any city department or other city agency.

§28-415.3 Classification. Such licenses shall be classified as follows:

1. Master sign hanger license. Authorizes the holder thereof to hoist or lower or to hang or attach any sign, irrespective of weight, upon or on the outside of any building.
2. Special sign hanger license. Authorizes the holder thereof to hoist or lower or to hang or attach any sign not exceeding one hundred fifty square feet in area, measured on one face only, nor exceeding one thousand two hundred pounds in weight, upon or on the outside of any building.

§28-415.4 Additional qualifications. Applicants for a sign hanger license shall have the additional qualifications set forth in sections 28-415.4.1 through 28-415.4.2.

§28-415.4.1 Master sign hanger qualifications. All applicants for a master sign hanger license shall submit satisfactory proof establishing that the applicant has had at least five years practical experience in sign hanging within the seven years preceding the date of the license application under the direct and continuing supervision of a licensed master sign hanger; and the applicant shall also have a knowledge of and ability to read plans and specifications relating to sign construction and erection, including supporting framework and other supports, and a knowledge of the problems and practices of sign construction and hanging and be familiar with the equipment and tools used in sign hanging.

§28-415.4.2 Special sign hanger qualifications. All applicants for a special sign hanger license shall submit satisfactory proof establishing that the applicant has had at least three years practical experience in sign hanging within the five years preceding the date of the license application under the direct and continuing supervision of a licensed sign hanger; and the applicant shall also have a knowledge and ability to read plans and specifications relating to sign construction and erection, including supporting framework and other supports, and a knowledge of the problems and practices of sign construction and hanging and be familiar with the equipment and tools used in sign hanging.

§28-415.5 Additional requirements. The additional requirements set forth in sections 28-415.5.1 through 28-415.5.2 shall apply to sign hangers:

§28-415.5.1 Danger warning. Every licensed sign hanger shall, while sign hanging operations are in progress at a job site, place conspicuously at such job site two plates or signs not less than 18 inches (457 mm) by 24 inches (610 mm) in size (i) displaying the word “danger” in letters not less than 6 inches (152 mm) high, and (ii) disclosing the sign hanger’s name, business address, type of license and license number.

§28-415.5.2 Sign hanger place of business. Every licensed sign hanger shall have a place of business within the city and shall display prominently at such place of business a plate or sign marked with the words “sign hanger” and the license number immediately thereunder.

§28-415.6 Fitness to perform work. As a condition of license renewal, a licensed sign hanger shall provide evidence satisfactory to the department that such licensee is fit to perform the work.

ARTICLE 416  
FILING REPRESENTATIVE REGISTRATION

§28-416.1 Filing representative registration required. No person shall use the term “registered filing representative” or “filing representative” or any similar representation in such manner as to convey the impression that such person is a registered filing representative in accordance with the provisions of this article; nor shall any person present, submit, furnish or seek approval of applications or construction documents, or remove any documents from the possession of the department, without first having registered with the department such person’s name, address and company affiliation on a form to be furnished by the department.

§28-416.2 Exemptions. The following persons are exempt from the provisions of this article:

1. The owners of the premises for which the building applications are filed including, in the case of partnerships or corporations, the general partners or the principal officers of the corporation, where the principal officers of a corporation shall include the president, vice presidents, secretary and treasurer;

2. The lessees of such premises authorized by the owner to file building applications;
3. Condominium unit owners authorized by the condominium board of managers to file building applications;
4. Cooperative shareholders authorized by the cooperative board of directors to file building applications;
5. Architects;
6. Engineers;
7. Attorneys admitted to practice in New York state;
8. Master plumbers licensed pursuant to this chapter;
9. Master fire suppression piping contractors licensed pursuant to this chapter; and
10. Master electricians licensed pursuant to subchapter one of chapter 3 of title 27 of the administrative code.

§28-416.3 Rules. The commissioner shall promulgate rules for the proper and efficient administration and enforcement of this article. Unless required by rule, a registered filing representative shall not be required to take an examination or to complete continuing education courses as a condition for renewal of the registration.

#### ARTICLE 417 BOARDS

§28-417.1 Plumbing and fire suppression piping contractor license board. The commissioner shall appoint annually and may remove in his or her discretion each member of a plumbing and fire suppression piping contractor license board that shall have as its purpose the following:

1. To advise the commissioner regarding the character and fitness of applicants for certificates of competence and licenses who have passed the required examination.
2. To advise the commissioner regarding allegations of illegal practices on the part of licensed master

plumbers, licensed master fire suppression piping contractors, master plumber businesses or master fire suppression piping businesses.

3. To advise the commissioner regarding plumbing and fire suppression piping practices, code applications, regulations and legislation.

4. To perform such other responsibilities as may be requested by the commissioner and as set forth in rules promulgated by the department.

§28-417.1.1 Removal. The commissioner may remove any member of the license board and shall fill any vacancy therein.

§28-417.1.2 Membership. Membership of the board shall consist of:

1. Two officers or employees of the department;

2. Five licensed master plumbers, three of whom shall be selected from nominees of the New York city contracting plumbing association whose members perform the largest dollar value of work within the city and one of whom shall be the holder of a class A or class B master fire suppression piping contractor license. The two remaining licensed master plumber board member positions shall be from the next largest plumbing association in the city of New York.

3. Two licensed master fire suppression piping contractors, both of whom shall hold a class A license and shall be selected from nominees of the New York city sprinkler/fire suppression piping contractors association whose members perform the largest dollar value of work within the city;

4. A registered journeyman plumber from the organization representing the largest number of registered journeyman plumbers;

5. A registered journeyman fire suppression piping installer from the organization representing

the largest number of registered journeyman fire suppression piping installers;

6. An engineer having at least five years experience in the design of plumbing systems;

7. An architect;

8. An engineer who is a full member of the society of fire protection engineers;

9. Two officers or employees of the fire department representing the fire commissioner; and

10. A real estate owner or manager or representative thereof.

§28-417.1.3 Organization of the board. A member of the board who is an officer or employee of the department representing the commissioner shall serve as chairperson and all members shall serve without compensation. Nine members including the chairperson, who shall be entitled to vote, shall constitute a quorum of the board for the transaction of business. All actions shall be conducted by majority vote except as otherwise provided, and the board shall keep minutes of its proceedings and records of its investigations. The board shall meet at least once a month except during the months of July and August, and at such other times upon call of the chairperson.

§28-417.1.4 Advisory and support personnel. The board may request the commissioner to appoint duly authorized representatives to conduct investigations and other activities incidental to the functions of the license board. Such appointees shall be non-voting members of the committee to which they are appointed, and may include personnel who are not department employees who shall serve without compensation. In addition the commissioner may designate such employees of the department as the commissioner deems necessary to the service and support of the license board.

CHAPTER 5  
SPECIAL PROVISIONS RELATING TO REGULATION OF OUTDOOR SIGNS

ARTICLE 501  
MAINTENANCE PERMIT FOR OUTDOOR SIGNS

§28-501.1 Permit required. The commissioner may, in his or her discretion, when necessary in the public

interest, establish a permit requirement for signs maintained in the areas described in this article in accordance with the provisions of this article and the rules of the department. On and after a date to be provided by the rules establishing such a permit requirement, and subject to the provisions of section 28-501.6 of this code, it shall be unlawful to place or maintain a sign, as defined in section 12-10 of the zoning resolution, on any building or premises unless a permit for the maintenance of such sign has been issued by the department pursuant to this article if such sign is within a distance of nine hundred linear feet from and within view of an arterial highway or within a distance of 200 linear feet (60 960 mm) from and within view of a public park with an area of one half acre or more.

§28-501.1.1 Other permits notwithstanding. Where a sign maintenance permit has been established by the commissioner pursuant to section 28-501.1 such permit shall be required for all signs maintained in the areas described in such section 28-501.1 and not otherwise excluded under section 28-501.6, whether or not a work permit is required and/or has been issued for the installation, alteration or erection of such sign pursuant to chapter 1 of this title.

§28-501.1.2 Arterial highway. For the purposes of this article, the term arterial highway shall include all highways that are shown on the master plan of arterial highways and major streets as principal routes parkways or toll crossings and that have been designated by the city planning commission as arterial highways to which the provisions of sections 42-55 and 32-66 of the zoning resolution shall apply as shown in appendix C of the zoning resolution.

§28-501.2 Application. Application for a permit or for the renewal of a permit shall be made on forms to be furnished by the department and shall contain such information as the department shall prescribe. Except as otherwise provided in section 28-501.3, a permit shall remain in effect for a period to be determined by rule and may be renewed. The fee for a permit or for its renewal shall be established by rule. The identification number of the permit shall be displayed on the sign or on the building or premises

on which the sign is located or both, in a manner to be provided by rule.

§28-501.3 Permit expiration. A permit issued pursuant to this article shall expire and be of no further force or effect where:

1. In the case of a sign which is accessory to a principal use within the meaning of section 12-10 of the zoning resolution, there has been a discontinuance of the operation of the principal use to which such sign is accessory, or in the event the sign is no longer in the same ownership as such principal use or is no longer operated and maintained substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the principal use;
2. In the case of any sign for which a permit has been issued pursuant to this article, whether or not accessory to a principal use within the meaning of section 12-10 of the zoning resolution, there has been a change in copy which the commissioner has determined renders such sign no longer in compliance with the zoning resolution. The commissioner shall prescribe by rule procedures for the notification to the department concerning changes in copy which have been made on signs for which permits have been issued under this article. Nothing herein shall be construed as limiting the ability of any person to apply for a new permit pursuant to this article.

§28-501.4 Civil penalties. Any person who places or maintains a sign on a building or premises without an appropriate permit in violation of this article shall be liable for a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars. Each day's continuance shall be a separate and distinct violation. Such civil penalties may be recovered in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose the civil penalties provided for in this article. Notwithstanding the provisions of section six hundred sixty-six of the charter, a notice of violation issued by the department pursuant to this section 28-501.4 shall not be subject to review by

the board of standards and appeals.

§28-501.5 Construction. This chapter shall not be construed to grant the right to place or maintain a sign on any building or premises where the placement or maintenance of such sign would otherwise be prohibited pursuant to the zoning resolution, the administrative code or any other provision of law. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain a sign which is unlawful pursuant to any other provisions of law nor shall any permit issued hereunder constitute a defense in an action or proceeding with respect to such an unlawful sign.

§28-501.6 Exemption. The provisions of this article shall not apply to:

1. Signs with a surface area of 200 square feet (19 m<sup>2</sup>) or less that are located no higher than 3 feet (914 mm) above the floor of the second story of the building on which the sign is located; and
2. Signs under the control of an outdoor advertising company and included on a certified list of signs, sign structures, and sign locations under the control of such company required to be filed with the department pursuant to this chapter.

## ARTICLE 502 OUTDOOR ADVERTISING COMPANIES

§28-502.1 Definitions. As used in this chapter, the following terms shall have the following meanings:

AFFILIATE. An outdoor advertising company having a controlling interest in another outdoor advertising company or in which such other outdoor advertising company has a controlling interest. In addition, where a person or entity has controlling interests in two or more outdoor advertising companies, such outdoor advertising companies shall be considered affiliates of each other. A “controlling interest” means actual working control, in whatever manner exercised, including without limitation, control through ownership, management, debt instruments or negative control, as the case may be, as defined in rules of the department.

OUTDOOR ADVERTISING COMPANY. A person, corporation, partnership or other business entity

that as a part of the regular conduct of its business engages in or, by way of advertising, promotions or other methods, holds itself out as engaging in the outdoor advertising business.

OUTDOOR ADVERTISING BUSINESS. The business of selling, leasing, marketing, managing, or otherwise either directly or indirectly making space on signs situated on buildings and premises within the city of New York available to others for advertising purposes, whether such advertising directs attention to a business, profession, commodity, service or entertainment conducted, sold, or offered on the same or a different zoning lot and whether such sign is classified as an advertising sign pursuant to section 12-10 of the zoning resolution.

SIGN. A sign as defined in section 12-10 of the zoning resolution except that such term shall not include any sign subject to regulation by the department of transportation.

SIGN LOCATION. A building or premises on which an outdoor advertising company is entitled to sell, lease, market, manage or otherwise either directly or indirectly make space on signs available to customers, irrespective of whether a sign exists on such building or premises.

UNDER THE CONTROL OF AN OUTDOOR ADVERTISING COMPANY in reference to a sign, sign structure, or sign location. That space on such sign, sign structure, or at such sign location that is sold, leased, marketed, managed or otherwise either directly or indirectly made available to others for any purposes by such outdoor advertising company.

§28-502.2 Registration of outdoor advertising companies. On and after a date to be provided by rule, it shall be unlawful for an outdoor advertising company to engage in the outdoor advertising business or, by way of advertising, promotions or other methods, hold itself out as engaging in the outdoor advertising business unless such company is registered in accordance with this code and the rules of the department. Such rules shall establish a procedure pursuant to which the department may require the single registration of an outdoor advertising company and its affiliates. An outdoor advertising company and its

affiliates made subject to single registration shall be considered a single outdoor advertising company for purposes of this code.

§28-502.2.1 Application. Application for registration or the renewal of registration shall be made on forms to be furnished by the department, may be made through electronic means, and shall contain such information as the department shall prescribe. Registration shall remain in force for two years and may be renewed. The fee for such registration and for the renewal of such registration shall be established by rule and may be based on the number of signs in the registered inventory.

§28-502.2.2 Security. Each outdoor advertising company shall post a bond or provide another form of security to the city in an amount to be determined by the department by rule to cover:

1. All costs incurred by the city pursuant to this code for painting over, covering, rendering ineffective or for the removal and storage of an illegal sign or sign structure under the control of such outdoor advertising company; and
2. All fines or civil penalties imposed against such company pursuant to this chapter.

§28-502.3 Revocation or suspension or registration. The department may revoke, suspend or refuse to renew the registration of an outdoor advertising company or impose fines or other penalties where it is determined by the commissioner, after notice and the opportunity to be heard, that (i) such company has made statements that it knew or should have known are false in any application or certification filed with the department, (ii) such company has failed to comply with section 28-502.3 of this code or the rules adopted pursuant to its provisions by failing to file a listing of signs, sign structures and sign locations under its control as specified in such section within the time and in the manner required by department rules or by filing an incomplete listing of signs, sign structures and sign locations under its control as specified in such section, (iii) such company has been found liable for or has admitted to violations of the zoning resolution under section 28-502.5 of this code committed on three or more occasions within a 36

month period, where such violations relate to the erection, maintenance, attachment, affixing, painting or representation in any other manner on a building or premises of advertising signs, as defined in section 12-10 of the zoning resolution, at locations where the display of such advertising signs is not permitted under the zoning resolution or at locations where the display of such advertising signs violates the size, height, or illumination provisions of the zoning resolution, and such signs are located within a distance of nine hundred linear feet from and within view of an arterial highway or within 200 linear feet (60 960 mm) from and within view of a public park with an area of one half acre or more, (iv) such company has failed to pay any civil penalties imposed or amounts owed to the city pursuant to section 28-502.5 of this code or, (v) such company has violated the department's rules pertaining to outdoor advertising companies. No application for registration by an outdoor advertising company or any affiliate thereof shall be accepted for filing by the department for a period of five years after revocation of or the refusal to renew the registration of such outdoor advertising company pursuant to this code. The department shall not accept or process any applications for permits to install, erect or alter signs pursuant to this code or for the maintenance of signs pursuant to section 28-501.1 of this code where such applications are filed by or where such signs are under the control of an outdoor advertising company or any affiliate thereof after the registration of such outdoor advertising company has been revoked or not renewed or during the term of any period of suspension of such registration. The commissioner may settle any proceeding in which the revocation, suspension or renewal of an outdoor advertising company's registration is at issue upon such terms and conditions as he or she may deem appropriate including but not limited to the agreement of an outdoor advertising company to remove signs along with supporting sign structures as a condition for the dismissal of such proceeding.

§28-502.4 Reporting requirement. An outdoor advertising company shall provide the department with a list with the location of signs, sign structures and sign locations under the control of such outdoor

advertising company in accordance with the following provisions:

1. The list shall include all signs, sign structures and sign locations located (i) within a distance of 900 linear feet (274 m) from and within view of an arterial highway; or (ii) within a distance of 200 linear feet (60 960 mm) from and within view of a public park with an area of ½ acre (5000 m) or more.
2. The commissioner may, by rule, expand the scope of such list to include the reporting of other signs, sign structures and sign locations, as specified in such rule.

§28-502.4.1 Form of list. The list shall be in such form, containing such information and filed at such periodic intervals or upon such other conditions, as the department shall prescribe by rule.

§28-502.4.2 Other required information. Such list shall also indicate the work permit identification numbers for the erection, alteration or installation of such signs pursuant to chapter 1 of this title and for the maintenance of such signs pursuant to article 501, unless a permit is not required pursuant to such provisions, as well as the name and license number of the master or special sign hanger who hung or erected each such sign.

§28-502.4.3 Certification of list. Such list shall be accompanied by (i) a certification by an architect or engineer, co-signed by a responsible officer of the outdoor advertising company, that all signs reported on such list are in compliance with the zoning resolution; (ii) copies of proof that the sign complies with the zoning resolution and a certification by the sign's owner that to the best of the certifier's knowledge and belief the information provided is accurate, or (iii) a written opinion by the department, stating that the sign to which the opinion refers complies with the zoning resolution. Notwithstanding any inconsistent provision of this code, where, in accordance with the department's rules, the department renders an opinion, determination or decision relating to whether a sign is non-conforming or whether it is located in proximity to an arterial highway as defined by the zoning

resolution, such decision, determination or opinion will be appealable to the board of standards and appeals in accordance with applicable law. If a timely appeal to such board is taken, the department shall not issue a notice of violation with respect to such sign pending a determination of such appeal by such board.

§28-502.4.4 Public access to list. The commissioner shall make all listings filed pursuant to this article accessible to the public.

§28-502.5 Display of name and registration number of outdoor advertising company. On and after a date to be prescribed by rule, the commissioner shall require that each outdoor advertising company display, in a manner to be provided by rule, on each sign under its control or on the building or premises where each sign under its control is located or both, (i) the name and registration number of such company and, (ii) unless a permit is not required, the work permit identification number for the installation, alteration or erection of the sign pursuant to chapter 1 of this code and, if applicable, for the maintenance of the sign pursuant to article 501.

§28-502.6 Criminal and civil penalties. Outdoor advertising companies that violate the zoning resolution, this code, the 1968 building code or rules of the department shall be subject to criminal and civil penalties in accordance with this article.

§28-502.6.1 General. Notwithstanding any other provision of law, an outdoor advertising company shall be liable for a civil penalty in accordance with this article if a sign under its control has been erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, this code, the 1968 building code or rules adopted pursuant thereto relating to signs.

§28-502.6.2 Unlawful for outdoor advertising company to sell space on illegal sign. It shall be unlawful for an outdoor advertising company to sell, lease, market, manage or otherwise make

available to others for advertising purposes space on a sign that has been erected, maintained, attached, affixed, painted on or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, this code, the 1968 building code or rules adopted pursuant thereto or to enter into any agreement for such purpose.

§28-502.6.3 Unlawful to transfer sign to unregistered outdoor advertising company. On and after a date to be provided by rule, it shall be unlawful for an outdoor advertising company to sell or otherwise transfer control of a sign or sign location or of any right of such company to sell, lease, market, manage or otherwise make space on a sign or at a sign location available to others for advertising purposes to an outdoor advertising company that is not registered in accordance with this article and the rules of the department.

§28-502.6.4 Civil penalty. An outdoor advertising company that violates any of the provisions of this article shall be subject to a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars. Each day's continuance shall be a separate and distinct violation.

§28-502.6.5 Criminal penalty. Notwithstanding any inconsistent provision of law, an outdoor advertising company shall, upon being found guilty, be subject to fines or imprisonment or both pursuant to this code if a sign under its control has been erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, this code, the 1968 building code or rules adopted pursuant thereto relating to signs.

§28-502.6.6 Activity by unregistered company. On and after a date to be provided by rule, an outdoor advertising company that engages in the outdoor advertising business or, by way of advertisement, promotion or other methods holds itself out as engaging in the outdoor advertising business without registering with the department pursuant to this chapter, or, after such registration has been revoked or

not renewed pursuant to this code continues to engage in such business beyond a date specified by the commissioner in his or her determination to revoke or not renew, shall be guilty of a misdemeanor subject to a fine not to exceed five thousand dollars or a sentence of imprisonment of not more than one year or both such fine and imprisonment for each offense. In the case of a continuing violation each day's continuance shall be a separate and distinct violation. Such company shall also be liable for a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars. Each day's continuance shall be a separate and distinct violation.

§28-502.6.7 Venue. Civil penalties may be recovered in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose the civil penalties provided for in this article. Notwithstanding the provisions of section six hundred sixty-six of the charter, a notice of violation issued by the department pursuant to this article shall not be subject to review by the board of standards and appeals.

§28-502.7 Signs under control of unregistered outdoor advertising company are public nuisance. On and after a date to be provided by rule, it shall be unlawful to erect, maintain, attach, affix, paint on, or in any other manner represent on a building or premises any sign that is under the control of an unregistered outdoor advertising company. In addition to or as an alternative to any other remedies or penalties provided under any other provision of law, the commissioner may commence a proceeding for the removal of such sign or its sign structure or both in accordance with the procedures set forth in this code for the abatement of a nuisance and any such sign and its sign structure is hereby declared to be a public nuisance pursuant thereto. All of the provisions of article 503 of this chapter shall apply to the removal of a sign pursuant to this article except that a sign under the control of an unregistered outdoor advertising company may be removed whether or not it is in compliance with the zoning resolution, this code, the

1968 building code or rules adopted pursuant thereto, and irrespective of whether it has a surface area greater than 200 square feet (19 m<sup>2</sup>).

§28-502.8 Franchise or concession disqualification. Notwithstanding any other provision of law to the contrary, an outdoor advertising company, or any affiliate thereof, that has been found guilty of a misdemeanor or liable for a civil penalty pursuant to this article or whose registration has been revoked shall be considered ineligible for the award of any city franchise or concession, and shall be prohibited from administering any advertising program on behalf of a city franchisee or concessionaire, for a period of five years following judgment or decision.

§28-502.9 Investigations. The department may investigate any matter within the jurisdiction conferred by this chapter and shall have full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation. The department of investigation may, at the request of the commissioner, assist the department in any investigation conducted pursuant to this article.

### ARTICLE 503 NUISANCE ABATEMENT FOR ILLEGAL SIGNS

§28-503.1 General. A sign with a surface area greater than 200 square feet (19 m<sup>2</sup>) that is erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of the zoning resolution, this code, the 1968 building code or rules adopted pursuant thereto is hereby declared to be a public nuisance. The commissioner may, after notice and hearing, order the removal of such illegal sign or its sign structure or both, as hereinafter provided.

§28-503.2 Notice. The commissioner shall serve a notice of hearing with regard to the proposed nuisance abatement on the owner and mortgagee of record of the building or premises and other persons having a recorded interest in the property in the manner provided in article 212 of chapter 2 of this title for the

service of an order of closure. If the sign is under the control of an outdoor advertising company and an address for such company is reasonably ascertainable, the notice shall also be served on such outdoor advertising company by mail to the last known address for such company or, if such company is registered in accordance with section 28-502.2, at the address provided to the department by the registrant.

§28-503.3 Hearing. The office of administrative trials and hearings shall conduct the hearing. The administrative law judge assigned to hear the matter shall submit his or her proposed findings of fact and recommended disposition to the commissioner. If based on such recommended disposition, proposed findings of fact and the record of the hearing the commissioner determines (i) that the sign has a surface area greater than 200 square feet (19 m<sup>2</sup>) and, (ii) that the sign has been erected, maintained, attached, affixed, painted on, or in any other manner represented on the building or premises in violation of the zoning resolution, this code, the 1968 building code or rules adopted pursuant thereto, he or she may order the removal of the illegal sign or its sign structure or both.

§28-503.3.1 Lack of knowledge no defense. At such hearing it shall not be a defense that an owner or other person having an interest in the property lacked knowledge of or did not participate in the erection or maintenance of the illegal sign.

§28-503.4 Posting of order. The commissioner's order of removal shall be posted, mailed and filed in the manner provided in this code for an order of closure.

§28-503.5 Enforcement of order. On or after the tenth business day after the posting of such order and upon the written directive of the commissioner, police officers and authorized representatives of the department shall act upon and enforce such order by removing, covering, painting over or otherwise rendering ineffective the illegal sign or its sign structure or both. Such work shall at all times be performed by a licensed sign hanger where required by law. Nothing in this article shall be construed to

prohibit an owner or other person having an interest in the property from removing or causing the removal of an illegal sign or its sign structure prior to the arrival of such enforcement officers. On and after the posting of such removal order, no further permits for signs shall be issued for such building or premises pursuant to this code and, if the sign structure is not removed, no further display shall be exhibited on such sign structure unless and until the commissioner rescinds such order.

§28-503.6 Rescission of order. The commissioner may rescind the order if the owner or other person having an interest in the building or premises provides assurance in a form satisfactory to the commissioner that all signs erected or maintained at such building or premises will be in compliance with the zoning resolution, this code, the 1968 building code or rules adopted pursuant to such provisions. If such order is rescinded, the commissioner shall, upon request of such owner, mortgagee or other person, provide a certified copy of such rescission which may be filed with the county clerk or register of the county in which such building or premises is located.

§28-503.7 Costs. The costs and expenses for painting over, covering, rendering ineffective or for the removal and storage of such sign and its sign structure may be recovered from the owner of the premises or, if the illegal sign is under the control of an outdoor advertising company and notice was served on such company in accordance with this article, from such outdoor advertising company. Such amounts may be recovered by the city in an action or proceeding in any court of appropriate jurisdiction and, with respect to amounts owed by an outdoor advertising company, by drawing upon any bond posted or other security provided by such company pursuant to section 28-502.2. Nothing in this article shall be construed to limit the ability of an owner to seek recovery of such costs and expenses from any other party.

§28-503.8 Lien. In addition, such costs and expenses shall constitute a lien on the land and building on which the sign was located which may be entered and enforced pursuant to the provisions of this code in the same manner as an unpaid fee.

§28-503.9 Storage and disposal. The commissioner shall adopt rules to provide for the storage and disposal of any sign or sign structure removed pursuant to this article. If the identity and address of the owner of such property is reasonably ascertainable, notice of the removal shall be sent to the owner within a reasonable period of time after the removal. If such property is not claimed within thirty days after its removal, it shall be deemed to be abandoned and may be sold at a public auction after having been advertised in the City Record and the proceeds paid into the general fund or if the commissioner determines that the property is not saleable, he or she may turn over such property to the department of sanitation for disposal. Property removed pursuant to this article shall be released to the owner or other person lawfully entitled to possession upon payment of the costs of removal and storage as set forth in the rules of the department and any fines or civil penalties imposed for the violation or, if an action or proceeding for the violation is pending in court or before the environmental control board, upon the posting of a bond or other form of security acceptable to the department in an amount which will secure the payment of such costs and any fines or civil penalties which may be imposed for the violation.

§28-503.10 Definitions. For the purposes of this article the terms “sign” and “surface area,” in reference to a sign, shall be as defined under section 12-10 of the zoning resolution.

§28-503.11 Review of order. An order of the commissioner issued pursuant to this article shall be a final determination of the commissioner for purposes of review pursuant to article seventy-eight of the civil practice law and rules. Notwithstanding any inconsistent provision of paragraph (a) of subdivision six of section six hundred sixty-six of the New York city charter, such order shall not be subject to review by the board of standards and appeals.

§12. The title of chapter 4 of title 28 of the administrative code of the city of New York, as added by local law number 99 for the year 2005, is amended to read as follows:

CHAPTER [4] 6

THE NEW YORK CITY PLUMBING CODE

§13. The title to section 401 of the administrative code of the city of New York, as added by local law number 99 for the year 2005, is amended to read as follows:

[SECTION 401] ARTICLE 601

ENACTMENT AND UPDATE OF THE NEW YORK CITY PLUMBING CODE

§14. Sections 28-401.1 and 28-401.2 of the administrative code of the city of New York, as added by local law number 99 for the year 2005, are renumbered to be sections 28-601.1 and 28-601.2.

§15. Chapters 5, 6, 7 and 8 of title 28 of the administrative code of the city of New York, as added by local law number 99 for the year 2005, are REPEALED.

§16. Title 28 of the administrative code of the city of New York is amended by adding a new chapter 7 to read as follows:

CHAPTER 7

THE NEW YORK CITY BUILDING CODE

ARTICLE 701

ENACTMENT AND UPDATE OF THE NEW YORK CITY BUILDING CODE

§28-701.1 Update. No later than the third year after the effective date of this section 701.1 and every third year thereafter, the commissioner shall submit to the city council proposed amendments that he or she determines should be made to this code to bring it up to date with the latest edition of the International Building Code or otherwise modify the provisions thereof. In addition, prior to the submission of such

proposal to the city council, such proposal shall be submitted to an advisory committee established by the commissioner pursuant to this title for review and comment.

§28-701.2 Enactment of the New York city building code. The New York city building code based on the 2003 edition of the International Building Code published by the International Code Council, with changes that reflect the unique character of the city, is hereby adopted to read as follows:

**THE NEW YORK CITY BUILDING CODE**

**CHAPTER 1**  
**ADMINISTRATION**

**CHAPTER 2**  
**DEFINITIONS**

**CHAPTER 3**  
**USE AND OCCUPANCY CLASSIFICATION**

**CHAPTER 4**  
**SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY**

**CHAPTER 5**  
**GENERAL BUILDING HEIGHTS AND AREAS**

**CHAPTER 6**  
**TYPES OF CONSTRUCTION**

**CHAPTER 7**  
**FIRE-RESISTANCE-RATED CONSTRUCTION**

**CHAPTER 8**  
**INTERIOR FINISHES**

**CHAPTER 9**  
**FIRE PROTECTION SYSTEMS**

**CHAPTER 10**  
**MEANS OF EGRESS**

**CHAPTER 11**  
**ACCESSIBILITY**

**CHAPTER 12**  
**INTERIOR ENVIRONMENT**

**CHAPTER 13**  
**ENERGY EFFICIENCY**

**CHAPTER 14**  
**EXTERIOR WALLS**

**CHAPTER 15**  
**ROOF ASSEMBLIES AND ROOFTOP STRUCTURES**

**CHAPTER 16**  
**STRUCTURAL DESIGN**

**CHAPTER 17**  
**STRUCTURAL TESTS AND SPECIAL INSPECTIONS**

**CHAPTER 18**  
**SOILS AND FOUNDATIONS**

**CHAPTER 19**  
**CONCRETE**

**CHAPTER 20**  
**ALUMINUM**

**CHAPTER 21**  
**MASONRY**

**CHAPTER 22**  
**STEEL**

**CHAPTER 23**  
**WOOD**

**CHAPTER 24**  
**GLASS AND GLAZING**

**CHAPTER 25**  
**GYPSUM BOARD AND PLASTER**

**CHAPTER 26**  
**PLASTIC**

**CHAPTER 27**  
**ELECTRICAL**

**CHAPTER 28**  
**MECHANICAL SYSTEMS**

**CHAPTER 29**  
**PLUMBING SYSTEMS**

**CHAPTER 30**  
**ELEVATORS AND CONVEYING SYSTEMS**

**CHAPTER 31**  
**SPECIAL CONSTRUCTION**

**CHAPTER 32**  
**ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY**

**CHAPTER 33**  
**SAFEGUARDS DURING CONSTRUCTION AND DEMOLITION**

**CHAPTER 34**  
**RESERVED**

**CHAPTER 35**  
**REFERENCED STANDARDS**

**APPENDIX A**  
**RESERVED**

**APPENDIX B**  
**RESERVED**

**APPENDIX C**  
**RESERVED**

**APPENDIX D**  
**FIRE DISTRICTS**

**APPENDIX E**  
**SUPPLEMENTARY ACCESSIBILITY REQUIREMENTS**

**APPENDIX F**  
**RODENT PROOFING**

**APPENDIX G**  
**FLOOD-RESISTANT CONSTRUCTION**

**APPENDIX H**  
**OUTDOOR SIGNS**

**APPENDIX I**  
**RESERVED**

**APPENDIX J**  
**RESERVED**

**APPENDIX K**  
**MODIFIED INDUSTRY STANDARDS FOR**  
**ELEVATORS AND CONVEYING SYSTEMS**

**APPENDIX L**  
**RESERVED**

**APPENDIX M**  
**SUPPLEMENTARY REQUIREMENTS FOR ONE- AND TWO-FAMILY DWELLINGS**

**APPENDIX N**  
**ASSISTIVE LISTENING SYSTEMS PERFORMANCE STANDARDS**

**APPENDIX O**  
**RESERVED**

**APPENDIX P**  
**R-2 OCCUPANCY TOILET AND BATHING FACILITIES REQUIREMENTS**

**APPENDIX Q**  
**MODIFIED NATIONAL STANDARDS FOR AUTOMATIC SPRINKLER, STANDPIPE, AND**  
**FIRE ALARM SYSTEMS**

**APPENDIX R**  
**ACOUSTICAL TILE AND LAY-IN PANEL CEILING SUSPENSION SYSTEMS**

§17. Title 28 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

CHAPTER 8

THE NEW YORK CITY MECHANICAL CODE

ARTICLE 801

ENACTMENT AND UPDATE OF THE NEW YORK CITY MECHANICAL CODE

§28-801.1 Update. No later than the third year after the effective date of this section 28-801.1 and every third year thereafter, the commissioner shall submit to the city council proposed amendments that he or she determines should be made to this code to bring it up to date with the latest edition of the International Mechanical Code or otherwise modify the provisions thereof. In addition, prior to the submission of such proposal to the city council, such proposal shall be submitted to an advisory committee established by the commissioner pursuant to this title for review and comment.

§28-801.2 Enactment of the New York city mechanical code. The New York city mechanical code based on the 2003 edition of the International Mechanical Code published by the International Code Council, with changes that reflect the unique character of the city, is hereby adopted to read as follows:

**THE NEW YORK CITY MECHANICAL CODE**

§18. Title 28 of the administrative code of the city of New York is amended by adding a new chapter 9 to read as follows:

CHAPTER 9

THE NEW YORK CITY FUEL GAS CODE

ARTICLE 901

ENACTMENT AND UPDATE OF THE NEW YORK CITY FUEL GAS CODE

§28-901.1 Update. No later than the third year after the effective date of this section 28-901.1 and every third year thereafter, the commissioner shall submit to the city council proposed amendments that he or she determines should be made to this code to bring it up to date with the latest edition of the

International Fuel Gas Code or otherwise modify the provisions thereof. In addition, prior to the submission of such proposal to the city council, such proposal shall be submitted to an advisory committee established by the commissioner pursuant to this title for review and comment.

§28-901.2 Enactment of the New York city fuel gas code. The New York city fuel gas code based on the 2003 edition of the International Fuel Gas Code published by the International Code Council, with changes that reflect the unique character of the city, is hereby adopted to read as follows:

### **THE NEW YORK CITY FUEL GAS CODE**

§19. All actions and proceedings, civil or criminal, commenced prior to the effective date of this local law in accordance with any provision repealed by this local law and pending immediately prior to the taking effect of such repeal may be prosecuted and defended to final effect in the same manner as they might if those provisions had not been repealed.

§20. All licenses, permits and certificates of occupancy issued prior to the effective date of this local law pursuant to any provision repealed by this local law and in force immediately prior to the taking effect of such repeal shall continue in force until they expire or are revoked as if the provisions under which they were issued had not been repealed. All renewals of such licenses and permits shall be in accordance with the provisions of title 28 of the administrative code of the city of New York as enacted by this local law.

§21. The repeal of item (vii) of paragraph b of subdivision 5 of section 1041 of the New York city charter as set forth in section one of this local law shall not affect the validity of reference standards amended, revised or added by the commissioner of buildings prior to the effective date of this local law and in force on the effective date of this local law.

§22. This local law shall take effect on July 1, 2008 except that section 10 of this local law shall take effect immediately and such section 10 shall be retroactive to and shall be deemed to be in full force and

effect on and after July 1 2007. Prior to July 1, 2008 the commissioner of buildings shall take administrative actions necessary for the timely implementation of this local law, including but not limited to the promulgation of rules.