

# 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. This title shall be known and may be cited as the “New York city construction codes” and includes:

- 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.
- The New York city energy conservation code.

**§28-101.2 Intent.** The purpose of the New York city construction codes 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, welfare and the environment, 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. Whenever a section or subsection of this code is cited or referred to, subordinate consecutively numbered sections and subsections of the cited provision are deemed to be included in such reference unless the context or subject matter requires otherwise.

**§28-101.3.1 Occupancy classifications in prior codes.** With regard to prior code buildings, references to occupancy classifications in this code shall be deemed to refer to the equivalent occupancy classification under the 1968 or prior building codes.

**§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 July 1, 2008, all work shall be performed in accordance with the provisions of this code.

**§28-101.4.1 Permit issued or work commenced prior to July 1, 2008.** If a permit for work was issued prior to July 1, 2008 or, if no permit was necessary, work was commenced prior to July 1, 2008, 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 July 1, 2008.** Any work for which an application for construction document approval was submitted to the department prior to July 1, 2008 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 work on prior code buildings.** At the option of the owner, and subject to applicable provisions of this code, work on prior code buildings may be performed in accordance with the requirements and standards set forth in the 1968 building code, or where the 1968 code so authorizes, the code in effect prior to December 6, 1968.

**Exceptions:**

1. **Fuel gas, plumbing and mechanical work.** The installation of and work on 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. **Fire protection systems.** Alterations of buildings and changes of use or occupancy shall be governed by chapter 9 of the New York city building code, subject to special provisions for prior code buildings as set forth therein.
3. **Elevators, conveyors and amusement rides.** The installation of and work on elevators, conveyors, and amusement rides shall be governed by chapter 30 and appendix K of the New York city building code and the rules of the department, subject to special provisions for prior code buildings as set forth therein.
4. **Safety during construction operations.** Safety of public and property during construction operations including demolition shall be governed by chapter 33 of the New York city building code.
5. **Accessibility.** Alterations, including minor alterations, of buildings and changes of use or occupancy, shall be governed by chapter 11 of the New York city building code, subject to special provisions for prior code buildings as set forth therein.
6. **Encroachments into the public right of way.** Encroachments onto the public right of way shall be governed by chapter 32 of the New York city building code.
7. **Administration and enforcement.** 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.
8. **Special inspections.** Controlled inspections and semi-controlled inspections as referenced in the 1968 building code shall be deemed to be special inspections and shall be governed by the provisions of this code relating to special inspections.
9. **Materials.** Materials regulated in their use by the 1968 building code shall be subject to applicable provisions of this code.
10. **Security grilles.** The installation and replacement of security grilles shall comply with section 1008.1.4.5 of the New York city building code.
11. **Energy efficiency.** All work related to energy efficiency shall be regulated by the New York city energy conservation code.
12. **Roof recovering and replacements.**
  - 12.1. **Installation and materials.** Work involving the recovering or replacing of an existing roof covering shall be governed by sections 1510.1 through 1510.6 of the New York city building code;
  - 12.2. **Cool roofs.** Work involving the recovering or replacing of an existing roof covering shall comply with section 1504.9 of the New York city building code unless the area to be recovered or replaced is less than fifty percent of the roof area and less than 500 square feet (46 m<sup>2</sup>).
  - 12.3. **Green roofs.** Notwithstanding the applicant's election to use the 1968 building code or prior code, work involving green roof systems and container gardens shall be permitted to be performed pursuant to Chapter 15 of the New York city building code.
13. **Handrails.** Where the alteration of a building includes the addition or replacement of an entire stair enclosure including the stairs, handrails shall comply with section 1009.12 and section 1012 of the New York city building code. Where the alteration of a building includes the addition or replacement of ramps, handrails shall comply with section 1010.8 and section 1012 of such code.
14. **Guards.** Where the alteration or repair of a building involves the addition or replacement of guards, such guards shall comply with sections 1013 and 1607.7 of the New York city building code.
15. **Areas of special flood hazard.** Within areas of special flood hazard in accordance with section 28-104.9.4, all work for any activity regulated by Appendix G of the New York city building code shall be governed by such appendix.
16. **Structural.** The use of load resistance factor design (LRFD), calculation of live loads, and applicability of seismic and wind loads shall be governed by special provisions for prior code buildings as set forth in section 1601.2 of the New York city building code.
17. **Emergency and standby power systems.** The installation of and work on emergency and standby power systems shall comply with section 2702.1 of the New York city building code.

18. **Parking garages and open parking lots.** Where an alteration of a parking garage or an open parking lot includes an increase in the size of the electric service, such alteration shall include provisions for the installation of electric vehicle charging stations in accordance with section 406.2.11 or 406.7.11 of the New York city building code, as applicable.

19. **Mold protection.** Alterations shall comply with sections 2506 and 2509 of the New York city building code relating to areas subject to moisture or water damage.

**§28-101.4.4 Reductions of fire safety or structural safety of prior code buildings prohibited.** Notwithstanding any other provision of this code, where the alteration of any prior code building or structure 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. Where the owner, having a choice to elect the 1968 building code or this code, chooses this code, the applicant shall submit a comparative analysis acceptable to the commissioner of the relevant fire safety and structural safety provisions under the 1968 building code and this code, demonstrating that the alteration does not result in a reduction to the fire and life safety of the building.

**Exception:** The use of automatic-closing by smoke detection for doors serving vertical exit enclosures in accordance with section 708.7 of the New York city building code in a prior code building shall not be deemed to result in a reduction of the fire safety or structural safety of such a building.

**§28-101.4.5 Work that increases existing floor surface area of a prior code building by more than 110 percent.** Notwithstanding sections 28-101.4.3 and 28-102.4.3 or any other provision of this code that would authorize alterations of prior code buildings in accordance with the 1968 building code or prior codes, where the proposed work at the completion of construction will increase the amount of floor surface area of a prior code building by more than 110 percent, over the amount of existing floor surface area, such entire building shall be made to comply with the provisions of this code as if it were a new building hereafter erected. See Section 28-105.2 for permits for such work.

**Exceptions:** When determining the amount of existing floor surface area for the purposes of section 28-101.4.5, the following shall be excluded from the measured square footage of floor surface area:

1. The square footage of floors removed during the course of the work when such floors are removed together with the supporting beams, joists, decking and slabs on grade.
2. The square footage of any floor that was installed together with the supporting beams, joists, decking and slabs on grade less than 12 months prior to submission of the application for construction document approval for the proposed work. For the purposes of this exception, floors installed pursuant to a work permit signed off less than 12 months before such submission shall not be counted as existing floor surface area.

**§28-101.4.5.1 Changes in scope of work.** In cases where changes in the scope of work during the course of construction would result in increasing the floor surface area at the completion of construction by more than 110 percent over the amount of existing floor surface area as determined pursuant to section 28-101.4.5, such entire building shall be made to comply with the provisions of this code as if hereafter erected and such work shall be refiled as a new building application in accordance with the provisions of section 28-105.2.

**Exception:** Work to the extent necessary to relieve an emergency condition may be performed prior to amending plans or obtaining a new permit pursuant to sections 28-105.4.1 and 28-105.12.2.

**§28-101.4.5.2 Definitions.** As used in Section 28-101.4.5, the following term shall have the following meaning unless the context or subject matter requires otherwise.

**FLOOR SURFACE AREA.** Floor surface area is the gross square foot area of all horizontal floor and roof surfaces, including roofs of bulkheads and superstructures, of a building or structure at any level, including cellar, attic and roof.

**§28-101.4.5.3 Effect on zoning resolution.** The provisions of section 28-101.4.5 shall not be construed to affect the status of any nonconforming use or non-complying bulk otherwise permitted to be retained pursuant to the New York city zoning resolution.

**§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.

**1968 OR PRIOR CODE BUILDINGS OR STRUCTURES (PRIOR CODE BUILDINGS).** (i) A building or structure in existence prior to July 1, 2008 or one for which a lawful building permit was issued for the erection of such building or structure prior to July 1, 2008. (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 on or after July 1, 2008 in accordance with section 28-101.4.2 of this code.

**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 or rooftop 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, 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, including the production of concrete.

**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, licensed concrete testing laboratory, 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, that work was done in compliance with approved construction documents and other applicable provisions of law, or 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, physical characteristics, and other elements of the project necessary for obtaining a building permit.

**DAY.** A calendar day, computed in accordance with section 20 of the New York state general construction law, unless otherwise specified as a business day.

**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.** A completed building or structure that is in existence at the time of an applicable reference in 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 construction site. Fabricated items shall not include listed, labeled or approved products or assemblies. Materials produced in accordance with standard specifications referenced by this code, such as rolled structural steel shapes, steel-reinforcing bars, masonry units, and wood structural panels or in accordance with a referenced standard, listed in this code, which provides requirements for quality control done under the supervision of a third-party quality control agency shall not be considered fabricated items.

**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 July 1, 2008.

**HERETOFORE.** Before July 1, 2008.

**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.** An identification applied to material by the manufacturer that contains the name of the manufacturer, the function and performance characteristics of the material, and the name and identification of the approved agency and that indicates that the representative sample of the material has been tested and evaluated by an approved agency.

**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.

**LANDSCAPE ARCHITECT.** A person licensed and registered to practice the profession of landscape architecture under the *Education Law of the State of New York*.

**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 OIL-BURNING BOILER ALTERATIONS.** An alteration to an oil burner/boiler system that is limited in scope, falling into one of the following categories:

**Category 1.** An alteration to an oil burner/boiler system where the total cost of the proposed category 1 work in the building does not exceed thirty-five thousand dollars in any 12-month period and where the proposed work is limited to the replacement of oil equipment or oil piping including oil tanks with 330 gallons (1250 L) or less capacity provided the replacement tanks have a UL listing or labeling or meet the alternative tank design and construction standards contained in section 1305.14 of the New York city mechanical code.

**Category 2.** An alteration to an oil burner/boiler system that is not subject to cost or duration limitations and that is limited to the following:

1. Replacement of oil-burning boilers or water heater with heat input of 1 million Btu/h (293 kW) or less.
2. Replacement of oil burners with heat input of 2.8 million Btu/h (821 kW) or less.
3. Relocation of an oil burner or oil-burning boiler or water heater within the same, unaltered fire-rated enclosure or room.
4. Placement of a temporary department of buildings registered oil fired mobile boiler at a site for emergency heating.

**LIMITED PLUMBING ALTERATIONS.** An alteration to a plumbing or fuel gas piping system that is limited in scope, falling into one of the following categories:

**Category 1.** An alteration to a plumbing or fuel gas piping system where the total cost of the proposed Category 1 work in the building does not exceed thirty-five thousand dollars in any 12-month period and where the proposed work is limited to the following:

1. The addition of not more than 5 plumbing fixtures or fixture connections in a building within any 12-month period,

including any associated plumbing necessary to serve such additional fixtures or fixture connections;

2. The installation of new plumbing or fuel gas piping, excluding work in Category 2;
3. The installation of up to five new sprinkler heads off of an existing domestic water system within any 12-month period;
4. Rearrangement of not more than 20 sprinkler heads in areas classified in light hazard occupancy, as such term is defined in NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and such areas will remain in such occupancy, and provided further that all such sprinkler heads are off of a domestic water system;
5. Rearrangement of not more than 20 sprinkler heads in restaurant service areas classified in Group 1 ordinary hazard occupancy, as such term is defined by NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and such areas will remain in such occupancy, and provided further that all such sprinkler heads are off of a domestic water system;
6. Rearrangement of not more than 20 sprinkler heads in mercantile areas classified in Group 2 ordinary hazard occupancy, as such term is defined by NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and such areas will remain in such occupancy, and provided further that all such sprinkler heads are off of a domestic water system;
7. In-kind replacement of piping and parts is required for the operation of a standpipe, provided that a sprinkler is not connected or is not now being connected to such system; and
8. Replacement of parts required for the operation of a standpipe system that is not a combined standpipe system.

**Category 2.** An alteration to a plumbing or fuel gas piping system that is not subject to cost or duration limitations and that is limited to the following:

1. The rerouting of existing plumbing or fuel gas branch piping to serve the same number of fixtures and appliances;
2. The in-kind replacement of plumbing fixtures and gas appliances when not constituting a minor alteration or ordinary repair under this code;
3. The relocation and mounting of new plumbing fixtures on existing roughing, other than the mere replacement of existing fixtures constituting a minor alteration or ordinary repair under this code;
4. The installation or replacement of primary backflow preventers;
5. Replacement of gas-fired boilers with heat input of 1 million Btu/h (293 kW) or less;
6. Replacement of gas burners with heat input of 2.8 million Btu/h (821 kW) or less;
7. Relocation of a gas burner/boiler within the same, unaltered fire-rated enclosure or room;
8. In-kind replacement with the following direct-vent appliances that are vented directly through exterior walls serving buildings occupied exclusively as one- or two-family dwellings not more than four stories in height, as provided for in rules by the department, regarding gas-fired boilers, hot water heaters and furnaces;
9. Installation of a new single domestic gas dryer that is vented directly through an exterior wall in buildings occupied exclusively as one- or two-family dwellings not more than four stories in height, as provided for in rules by the department;
10. Placement of a registered gas fired temporary boiler at a site for emergency heating; and
11. Replacement of up to thirty existing sprinkler heads providing that orifice sizes, type and deflector positions remain the same, and all such sprinkler heads are off of a domestic water system.

**LIMITED SPRINKLER ALTERATIONS.** An alteration to a sprinkler system that is limited in scope, falling into one of the following categories:

**Category 1.** An alteration to an existing sprinkler system where the total cost of the proposed Category 1 work in the building does not exceed thirty-five thousand dollars in any 12-month period and where the proposed work is limited to the following:

1. Replacement of parts required for the operation of a sprinkler system;
2. Changes that do not alter the type of sprinkler system;
3. Relocation of piping that does not affect the operation of the sprinkler system;
4. Rearrangement of not more than 20 sprinkler heads in areas classified in light hazard occupancy, as such term is defined in NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and

such areas will remain in such occupancy;

5. Rearrangement of not more than 20 sprinkler heads in restaurant service areas classified in Group 1 ordinary hazard occupancy, as such term is defined in NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and such areas will remain in such occupancy;
6. Rearrangement of not more than 20 sprinkler heads in mercantile areas classified in Group 2 ordinary hazard occupancy, as such term is defined by NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and such areas will remain in such occupancy; and
7. The installation of up to five new sprinkler heads off of an existing sprinkler system.

**Category 2.** An alteration to an existing sprinkler system that is not subject to cost or duration limitations and that is limited to the replacement of sprinkler heads, provided that orifice sizes, type and deflector positions remain the same.

**LIMITED STANDPIPE ALTERATIONS.** An alteration to an existing combined standpipe system that is limited in scope falling into the following category:

**Category 1.** An alteration to an existing combined standpipe system where the total cost of the proposed work in the building does not exceed thirty five thousand dollars in any 12-month period and the proposed work is limited to one or more of 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.

**LISTED.** Material identified in a list published by an approved agency that maintains periodic inspection of production of listed material or periodic evaluation services 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.

**MAIN USE OR DOMINANT OCCUPANCY (OF A BUILDING).** Refers to a single occupancy classification assigned to a structure by the department according to such structure's main use or dominant occupancy.

**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.

**PRIOR CODE BUILDING.** See 1968 OR PRIOR CODE BUILDING OR STRUCTURE (PRIOR CODE BUILDING).

**PROFESSIONAL CERTIFICATION.** A personal verification of a registered design professional made under such professional's signature and seal that accompanies construction documents and other related 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.

**PROGRESS INSPECTION.** Inspection of permitted construction work in progress to verify compliance with the code and with approved construction documents.

**PROJECT.** A design and construction undertaking comprised of work related to one or more buildings or structures and the site improvements. A project is represented by one or more plan/work applications, including construction documents compiled in accordance with article 104 of this chapter, that relate either to the construction of new buildings or structures or to the demolition

or alteration of existing buildings or structures. Applications for a project may have different registered design professionals and different application numbers, and may result in the issuance of one or more permits.

**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.

**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.

**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.

**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 INSPECTION AGENCY.** An agency employing one or more persons who are special inspectors and that meets the requirements of department rules.

**SPECIAL INSPECTOR.** An individual employed by a special inspection agency having required qualifications and authorized by department rules 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.

**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 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.

**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.

**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.

**§28-102.4.1 Prior code buildings must comply with the applicable retroactive requirements of the 1968 building code.**

Prior code 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 July 1, 2008 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 July 1, 2008, to another use prohibited by the provisions of this code shall be deemed a violation of this code.

**§28-102.4.3 Alteration of prior code buildings.** Except as otherwise provided in sections 28-101.4.1, 28-101.4.2, 28-101.4.3 and 28-101.4.4, prior code buildings altered after July 1, 2008 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 Continuation of unlawful use or occupancy.** The continuation of the unlawful use or occupancy of a building or structure contrary to the provisions of this code, or contrary to the provisions of prior codes or other applicable law or rule, shall be a violation of this code.

**§28-102.4.5 Fire district maps.** The boundaries of fire districts shall be in accordance with the maps set forth in Appendix D of the New York city building code.

**§28-102.5 Regulation 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.

**§28-102.7 References in other laws.** References to provisions of the building code of the city of New York or to chapter 1 of title 27 of the administrative code in other laws shall be deemed to refer to equivalent provisions of the 1968 building code or the New York city construction codes as the context in which such references appear may require.

## **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;
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;
6. Fire fighting equipment, access to and within premises upon or in which construction and demolition work is being conducted, and the conduct of all construction or demolition work affecting fire prevention and fire fighting;
7. Any exhaust system designed or used for commercial cooking equipment, when such commercial cooking equipment is required to be protected by a fire extinguishing system; and
8. The installation and testing of natural gas distribution piping systems designed for or operated at a gas pressure of 15 psig (103 kPa gauge) or greater.

**§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.

**§28-103.1.3 Innovation review board.** There is hereby established within the department an innovation review board which shall include as members in addition to the commissioner, the commissioners of environmental protection, health and mental hygiene and design and construction and the chairperson of the city planning commission, or their respective designees. The commissioner shall also designate members from among the fire commissioner and the commissioners of transportation, parks and recreation, consumer affairs, emergency management, housing preservation and development and sanitation and the chairperson of the landmarks preservation commission, and non-governmental organizations and individuals, or their respective designees, with respect to specific matters being considered by the board where the commissioner determines it appropriate to do so.

**§28-103.1.3.1 Meetings and recommendations.** The commissioner shall convene the innovation review board at least quarterly, or more often as the commissioner may deem necessary to address issues in a timely manner to (i) review specific projects that propose to employ new technologies, design or construction techniques, materials or products, (ii) review proposals for approval of and to initiate reviews of such new technologies, design or construction techniques, materials or products in order to determine their environmental and sustainability benefits, (iii) make recommendations as to under what conditions and for what purposes each may be appropriately employed in New York city, and (iv) streamline approvals of specific innovative projects. If the board recommends that a technology, design or construction technique, material or product may appropriately be employed, the commissioner shall consider such recommendation and may by rule or other method as the commissioner deems appropriate, authorize the use of such technology, design or construction technique, material or product and under what conditions and for what purposes each may be appropriately employed. The commissioner shall state in writing to the interagency green team established pursuant to subdivision i of section twenty of the charter what action the commissioner shall take with respect to each such recommendation and the reasons for the action taken.

**§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 25-204 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.

**§28-103.7.1 Sharing results of buildings inspections.** The commissioner, the fire commissioner and the commissioner of the department of environmental protection shall establish a procedure, the implementation of which shall begin within six months of the effective date of this section, to share information regarding violations issued as a result of inspections of buildings meeting agreed-upon criteria that are relevant to the responsibilities of each department.

**§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 related 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 existing buildings, structures, signs, service equipment and construction machinery and equipment.** In addition to other required inspections, the commissioner may make or require inspections of existing 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.

**§28-103.20 Existing rules continued.** Rules promulgated by the department in accordance with the law in effect prior to July 1, 2008 shall remain in effect for the matters covered to the extent that such rules are not inconsistent with this code unless and until such rules are amended or repealed by the department.

**§28-103.21 Incident lists.** The commissioner shall post on the department's website a list of every incident that occurred on every construction site within the city of New York that resulted in an injury and/or a fatality, either or both of which were reported to the department or of which the department otherwise became aware. Such list shall be updated monthly. Such list shall identify the owner and the general contractor of the site where the incident occurred, the nature of the work being performed at the time of the incident, violations issued as a result of the incident and to whom such violations were issued, and the number of persons injured and/or killed. Such list shall also set forth the total number of injuries and fatalities reported to the department or of which the department otherwise became aware that occurred on construction sites within each borough and within the entire city for each of the previous five calendar years.

**§28-103.22 Outreach on security grille visibility requirements.** The commissioner shall, through or in cooperation with the department of small business services, the department of consumer affairs, and other city agencies deemed appropriate, develop an outreach program to manufacturers and installers of security grilles, business improvement districts, local development corporations, chambers of commerce and community boards to alert these groups and the businesses that utilize security grilles of the permit requirements and the requirements of this section, the penalties associated with violation thereof and the availability of any business loans, grants or tax subsidies related to the installation or use of such security grilles.

**§28-103.23 Manual on flood construction and protection standards.** The commissioner shall create and make publicly available, in print and on the department's website, a manual explaining in detail the flood construction and protection requirements and standards applicable to the city. Such manual shall be made available in plain English and Spanish and in other

languages as determined by the commissioner and shall be updated as necessary to reflect changes to applicable flood construction requirements and standards. Such manual shall include, but need not be limited to, a description and explanation of the following:

1. The materials requirements imposed by applicable flood construction requirements and standards, including the elements of structures subject to such material requirements;
2. The manner in which specific utilities and attendant equipment must be protected from flooding; and
3. The application of the flood construction and protection requirements and standards to existing structures.

**§28-103.24 Electronic submissions.** The commissioner shall have the discretion to require that any document submitted to the department be submitted electronically.

**\*§28-103.25 Hotel development plans.** Where the department receives applications for new construction of or conversions to transient hotels, as defined in the zoning resolution, the department shall provide written notice, or notice by electronic mail, of the proposed construction or conversion to:

1. The borough president of the borough in which such proposed construction is located;
2. The council member in whose district such proposed construction is located;
3. The community board of the community district in which such proposed construction is located; and
4. If such proposed construction involved land within two or more community districts in a borough, the borough board.

*\*Section 28-103.25 was added by [Local Law 45 of 2015](#). This law has an effective date of November 13, 2015.*

## **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 an application 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 applications for construction and related document approval.** The commissioner may, in the commissioner's discretion, establish a program whereby construction and related 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 and related documents in accordance with such program shall have the same force and effect as the approval of construction and related 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 and/or related documents or to the approval of construction and/or related documents shall also be deemed to refer to accepted construction and related documents or to the acceptance of construction and related 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 and other related 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. For the purposes of this section, a professionally certified application shall include the professional certification of construction and other related documents and the satisfaction of objections issued at plan examination.

**§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 Mandatory permanent revocation.** The commissioner shall permanently revoke, without the opportunity of restoration, the professional certification privileges of an engineer or architect who, while on probation, professionally certifies an application, plans, construction or other related documents that contains false information or is not in compliance with all applicable provisions of law or who otherwise demonstrates incompetence or a lack of knowledge of applicable laws.

**§28-104.2.1.3.2.3 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. The department shall provide requested information concerning the exclusion, suspension or other sanction of a specific registered design professional within 30 days of such request.

**§28-104.2.1.5 Applicant requirement.** The program shall include a condition that the applicant remain with the project until it is signed-off by the department and that if the applicant withdraws from or is unable to continue a project 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 of record and such person:

1. Completes a thorough review and evaluation of the previously filed and accepted construction and other related documents to determine that they conform to the applicable laws and rules in accordance with rules of the board or regents, 8 NYCRR 29.3(a)3;
2. Inspects any built work to confirm that the observable conditions are consistent with the previously filed and accepted construction documents; and
3. Based on the result of the evaluation and inspections, secures department approval after examination of construction and other related documents submitted by and under signature and seal of the successor. All deficiencies shall be addressed by the successor in such documents.

**§28-104.2.1.6 Notice to the state department of education.** The department shall provide written notice to the New York

state department of education of any registered design professional who was the subject of any disciplinary proceeding where there has been an adverse determination or sanction by the department including any settlement agreement that is reached between the parties that resulted in a sanction of privileges being imposed by the department. Such notice shall be sent within ten business days after a determination is made in any such disciplinary proceeding or after a settlement of such proceeding has been reached, and shall include the name, and business firm name and address of such registered design professional, as well as any supporting documentation for the sanction imposed. The department shall also provide such notice to the state department of education of any registered design professional that has been the subject of any disciplinary proceeding where there has been an adverse determination or sanction by the department within the five calendar years immediately preceding the effective date of this section.

**§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 project 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 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, 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 section 106.7.1 of the New York city building code, as well as a loading diagram and column schedule for the entire building or structure;
4. Earthwork plans, as provided for in section 107.8 of the New York city building code; and
5. The floor and roof plans showing compliance with exit requirements, as provided for in this code. Structural calculations that justify the foundation design shall be made available to the department when requested by the department. Following the partial approval of such construction documents, the issuance of a foundation and earthwork permit shall be subject to submission of required submittal documents, including related support of excavation documents in accordance with section 28-105.2.1. The owner and the holder of such a 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. In the event that the project does not proceed, any open excavation shall be filled and graded in accordance with chapter 33 of the New York city building 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 work permits that may have been issued based on such construction documents.

**§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 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 oil burner/boiler alterations, 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. Applications for work falling within the practice of landscape architecture as defined by the New York state education law, including but not limited to landscaping and vegetation plans, tree protection plans, erosion and sedimentation plans, grading and drainage plans, curb cuts, pavement plans, and site plans for urban plazas and parking lots, where the applicant is a landscape architect. Landscape architects shall not file plans for stormwater management and plumbing systems;
5. Other categories of work consistent with rules promulgated by the commissioner.

**§28-104.6.1 Verification of professional qualification required.** The department shall not accept construction documents or other documents submitted in connection with applications for construction document approval or work permits under this code by any person representing that he or she is a registered design professional or landscape architect without verifying, by means of lists compiled and made available by the New York state department of education pursuant to paragraph e-1 of subdivision four of section sixty-five hundred seven of the education law, that such person meets the qualifications established by law to practice as an architect or engineer in New York state.

**§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 North American vertical datum of 1988 (“NAVD”) as established and maintained by National Geodetic Survey of the National Ocean Service, National Oceanic and Atmospheric Administration or successor agency, which is hereby established as the city datum. Neither the United States coast and geodetic survey mean sea level datum of 1929 (national geodetic vertical datum, (“NGVD”) nor any of the five borough data as established by the former Board of Estimate and Apportionment shall be referred to in construction documents except as may be required for the purpose of demonstrating conversion to the NAVD. Conversions to NAVD shall be performed by registered design professionals or surveyors. Conversion to and from borough data and NGVD shall be performed using tables 104.7.6.1 through 104.7.6.5.

**TABLE 104.7.6.1**

BRONX ELEVATIONS	TO OBTAIN EQUIVALENCY:	NGVD ELEVATIONS
10.000	→add 2.608→	12.608
7.392	→add 2.608→	10.000

**TABLE 104.7.6.2**

BROOKLYN ELEVATIONS	TO OBTAIN EQUIVALENCY:	NGVD ELEVATIONS
10.000	→add 2.547→	12.547
7.453	→add 2.547→	10.000

**TABLE 104.7.6.3**

MANHATTAN ELEVATIONS	TO OBTAIN EQUIVALENCY:	NGVD ELEVATIONS
10.000	→add 2.752→	12.752
7.248	→add 2.752→	10.000

**TABLE 104.7.6.4**

QUEENS ELEVATIONS	TO OBTAIN EQUIVALENCY:	NGVD ELEVATIONS
10.000	→add 2.725→	12.725
7.275	→add 2.725→	10.000

**TABLE 104.7.6.5**

STATEN ISLAND ELEVATIONS	TO OBTAIN EQUIVALENCY:	NGVD ELEVATIONS
10.000	→add 3.192→	13.192
6.808	→add 3.192→	10.000

**§28-104.7.7 Identification of special and progress inspections.** Whenever work or materials are subject to special inspection, as provided in this code, such work or materials shall be listed on the title sheet of the construction documents, or the sheet immediately following, as subject to special or progress 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 code.** The application shall contain all information required to demonstrate compliance with the New York city energy conservation code. This information shall include signed and sealed construction drawings, including electrical drawings, to the extent that they demonstrate such energy code compliance, as required by such energy code and rules.

**§28-104.7.10 Preparer.** Each plan or drawing shall contain the license number, seal, signature (or equivalent as approved by the commissioner) and address of the registered design professional or landscape architect 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.

**§28-104.7.13 Identification of work involving raising or moving a building.** Where the lowest above-grade floor or the lowest subgrade floor of a building is to be raised, lifted, elevated or moved, such work shall be listed on the title sheet of the construction documents as subject to special inspection.

**§28-104.7.14 Identification of certain I-1 and I-2 occupancies and of certain adult homes, enriched housing, community residences and intermediate care facilities as exempt from temporary external generator connection requirements.** The title sheet of construction documents for the following buildings shall list whether the building is exempt from the requirement to provide connections for temporary external generators pursuant to any exception contained in Sections G304.5.1 or G304.5.2 of appendix G of the New York city building code, as applicable:

1. A new or substantially improved building, as such term is defined in appendix G of the New York city building code, that contains space classified in occupancy group I-1 or I-2 or space that is an adult home, enriched housing, community residence or intermediate care facility classified as occupancy group R pursuant to an exception to section 308.2.1 or 308.2.2 of the New York city building code, and that is located in an area of special flood hazard, as such term is defined in appendix G of the New York city building code; and
2. A new or substantially improved building that contains space classified as an occupancy group I-2 hospital and that is located in a shaded X-Zone, as such terms are defined in appendix G of the New York city building code.

**§28-104.7.15 Identification of certain hospitals as exempt from temporary external boiler or chiller connection requirements.** The title sheet of construction documents for a new or substantially improved building, as such term is defined in appendix G of the New York city building code, that contains space classified as an occupancy group I-2 hospital and that is located in an area of special flood hazard or shaded X-Zone, as such terms are defined in appendix G of the New York city building code, shall list whether the requirement to provide connections for temporary external boilers and chillers pursuant to Item 2 of section G304.5.2 is inapplicable as a result of such building having its boiler and chiller plants located at or above the applicable design flood elevation.

**§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;
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 homes and com-

munity 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; and
4. A statement certifying compliance with the New York city energy conservation code.

**§28-104.8.2 Owner statement.** The application shall contain a signed statement by the owner, and, in the case of cooperative or condominium forms of ownership, the application shall also contain a statement by the cooperative or condominium board, affirming that the applicant is authorized to make the application and, if applicable, acknowledging that construction and related 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. Where a current deed holder with a valid property interest or a court appointed entity or equivalent in charge of the property, or in the case of a cooperative or condominium unit, the cooperative or condominium board, notifies the department in writing that the applicant does not have authority to make the application, the department is authorized pursuant to section 28-104.2.10 to revoke approval of construction documents.

**§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, and, in the case of cooperative or condominium forms of ownership, 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.

**§28-104.9 Coastal zones and water-sensitive inland zones.** Construction documents shall comply with sections 28-104.9.1 through 28-104.9.6 relating to work in coastal zones and water-sensitive inland zones.

**§28-104.9.1 Definitions.** As used in section 28-104.9 the following terms shall have the following meanings:

**COASTAL AREAS OF SPECIAL FLOOD HAZARD.** Areas of land as identified on the flood insurance rate maps referenced in New York city building code section G402 pursuant to article 36 of the New York state environmental conservation law.

**COASTAL EROSION HAZARD AREAS.** Areas of land as identified on the final map issued by the New York state department of environmental conservation in accordance with section 34-0104 of the New York state environmental conservation law.

**COASTAL ZONES AND WATER-SENSITIVE INLAND ZONES.** Areas of land comprising tidal wetlands, freshwater wetlands, coastal erosion hazard areas, coastal areas of special flood hazard or rivervine and other inland areas of special flood hazard.

**FRESHWATER WETLANDS.** Areas of land as identified on the final map issued by the New York state department of environmental conservation in accordance with section 24-0301 of the New York state environmental conservation law, as well as any adjacent areas as such term is defined in section 662.1 of title six of the New York code of rules and regulations.

**RIVERVINE AND OTHER INLAND AREAS OF SPECIAL FLOOD HAZARD.** Areas of land, including floodways, as identified on the flood insurance rate maps referenced in section G402 of the New York city building code pursuant to article 36 of the New York state environmental conservation law.

**STRUCTURE.** Any object constructed, installed or placed in, on or under land or water, including, but not limited to, a building, permanent shed, deck, in-ground or aboveground swimming pool, garage, mobile home, paving, road, public utility service distribution, transmission and collection system, storage tank, pier, dock, wharf, groin, jetty, seawall, revetment, bulkhead or breakwater.

**TIDAL WETLANDS.** Areas of land as identified on the tidal wetland inventory issued by the New York state department of environmental conservation in accordance with section 25-0201 of the New York state environmental conservation law, as well as any adjacent areas as such term is defined in section 661.4 of title six of the New York code of rules and regulations.

**§28-104.9.2 Statement and submission by applicant.** It shall be the duty of an applicant for construction document approval to determine whether the proposed work is located within a coastal zone or a water-sensitive inland zone subject to section 28-104.9.3 and/or section 28-104.9. Applications for construction document approval shall include a statement by the applicant indicating whether the proposed work is located within a coastal zone or water-sensitive inland zone subject to such sections. The failure to disclose that proposed work is within a coastal zone or water-sensitive inland zone subject to such sections shall be a violation of this code.

**§28-104.9.3 Coordination with department of environmental conservation and other agencies.** The commissioner shall not approve construction documents for construction of a new structure, the horizontal enlargement of a structure or to excavate or fill any land, within a tidal wetland, a tidal wetland adjacent area, freshwater wetland, freshwater wetland adjacent area, or coastal erosion hazard area, without documentation satisfactory to the commissioner that the New York state department of environmental conservation, and such other governmental agencies as are applicable, have issued any applicable permits or other approvals for such construction, excavation or fill.

**§28-104.9.4 Compliance with special flood hazard area requirements mandated within special flood hazard areas.** Within coastal areas of special flood hazard and areas of special flood hazard, the commissioner shall not approve construction documents for construction or alteration of buildings or structures, including alterations pursuant to section 28-101.4.3, or for any other activity regulated by section G201 of the New York city building code, unless the application complies with the requirements of Appendix G of the New York city building code.

**§28-104.9.5 False statement or omission.** No person shall submit an application for construction document approval for any structure within a coastal zone or water-sensitive inland zone which falsely avers or by omission causes the department to determine that the subject property is not located within such zone or that the New York state department of environmental conservation and other appropriate agencies have issued the appropriate permits or approvals when they did not.

**§28-104.9.6 Revocation of approval of construction documents.** Where the department determines that work is located within a coastal zone or water-sensitive inland zone after construction documents have been approved for such work and/or that the documentation required by sections 28-104.9.2 through 28-104.9.4 has not been submitted, the department shall revoke such approval and any associated work permits that may have been issued for such work in accordance with section 28-104.2.10.

**§28-104.10 Construction documents for sites near subways or tunnels.** Construction documents shall not be approved unless all applicable agency approvals regarding nearby subways or tunnels as provided for in sections 3304.3.3 and 3304.3.5 of the New York city building code have been submitted to the department.

## **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, to change the use or occupancy of an open lot or portion thereof, 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, fire suppression or fire protection 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.

**§28-105.1.1 Notification to fire department.** The commissioner, in consultation with the fire commissioner, shall establish a procedure for notifying the fire department of the issuance of any permit that will result in the issuance of a new or amended certificate of occupancy or other change in the use or occupancy of the premises. In no instance shall the required notice be given to the fire department more than one business day after the date of the issuance of the permit.

**§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, including as provided for in section 28-101.4.5.
2. **Alteration permits:** for the alteration of buildings or structures, including new and existing sign structures and partial demolition in conjunction with such buildings or structures.
3. **Foundation and earthwork permits:** for the construction or alteration of foundations, including earthwork, excavation, fill, and foundation insulation.
4. **Earthwork permits:** for work solely involving earthwork, excavation, or fill operations.
5. **Full demolition permits:** for the full demolition and removal of buildings or structures.
6. **Plumbing permits:** for the installation or alteration of plumbing and plumbing systems, including gas piping. Such permits shall include permits for limited plumbing alterations.
7. **Sign permits:** for the erection, installation or alteration of signs.
8. **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, dumbwaiters, mobile boilers and mobile oil tanks. Such permits shall include permits for limited oil burner/boiler alterations.
9. **Temporary construction equipment permits:** for the erection, installation and use of temporary structures to facilitate construction and/or safety during construction, including but not limited to temporary fences, railings, catch platforms, over-the-sidewalk chutes, footbridges, sidewalk sheds, and scaffolds.
10. **Fire protection and suppression system permits:** for the installation and alteration of fire protection and suppression systems, including but not limited to sprinkler systems, standpipe systems, non-water systems, and fire suppression systems for commercial cooking equipment. Such permits shall include permits for limited sprinkler alterations and limited standpipe alterations.
11. **Crane and derrick permits:** for the use of power operated cranes and derricks during construction.

**§28-105.2.1 Submittal documents required for foundations and earthwork.** Prior to the issuance of any permit for work that includes foundations and/or earthwork, submittal documents clearly illustrating support of excavation design, including but not limited to stepping, sheeting, sloping, shoring, and bracing, and any protective railings or equipment required by chapter 33 of the New York city building code shall be required.

**§28-105.2.2 Submittal documents required for partial demolition.** Prior to the issuance of any permit for work that includes partial demolition, submittal documents shall be required in accordance with chapter 33 of the New York city building code.

**§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. Geotechnical investigations, as set forth in section 28-105.4.6.

7. 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 or education occupancies between November 1<sup>st</sup> and May 1<sup>st</sup>.
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 or fire protection 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 or fire protection 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 secondary 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.
8. The replacement of flexible gas tubing no greater than 4 feet (1219 mm) in length located downstream of the existing gas cock to an appliance, provided such gas tubing does not penetrate a wall.

**§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 ( $0.56 \text{ m}^2$ ) in area;
3. Erected by employees of a city agency, including traffic and other similar signs;
4. A ground sign offering the sale or rental of the premises on which it is erected, provided the sign does not exceed 12 square feet ( $1.1 \text{ m}^2$ ) in area;
5. Temporary and erected during construction work and related thereto;
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; or
7. Temporary signs offering the sale or rental of real property when erected on the premises offered for sale or rent.

**§28-105.4.6 Geotechnical investigations.** A permit shall not be required for excavation performed for a geotechnical investigation required by section 1802.4 of the New York city building code provided such excavation does not exceed 10 feet (3048 mm) in length, width, or diameter and is conducted under the supervision of a registered design professional. All excavation activity, including backfilling of excavations, shall comply with all relevant code provisions, including but not limited to sections 1803 and 3304 of the New York city building code.

**§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 project. 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).

**§28-105.5.1 Applicant for permit.** The applicant for a permit shall be the person who performs the work or who retains a subcontractor to do the work.

**Exception:** For permits issued for plumbing work, fire protection and suppression work, and oil burner/boiler work, the applicant for such permits shall be the licensed master plumber, licensed master fire suppression piping contractor, or licensed oil-burning equipment installer, respectively, who performs the work.

**§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. Subsequent to the 12-month period following the issuance of the initial permit, all permits shall expire if the permitted work is suspended or abandoned for a continuous period of 12 months unless such permits expire earlier pursuant to applicable provisions of this code. 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.

**Exception:** All permits for work in an area of special flood hazard shall comply with section G104 of appendix G of the New York city building code.

**§28-105.9.1 Reinstatement.** The commissioner may at any time reinstate a work permit solely for the purpose of sign-off, including the correction of defects noted in a final inspection as provided in section 28-116.2.4 of this code, or reinstate a work permit within a period of two years from the date of issuance of the original permit. Except in the case of a permit reinstated solely for the purpose of sign-off, 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. The applicant for reinstatement shall pay all reinstatement fees as required by article 112.

**§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 a copy thereof 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. Where the permit is exposed to the weather, it shall be laminated or encased in a plastic covering to protect it from the elements.

**Exception:** Where a project information panel is required by section 3301.9.1, of the New York city building code, the permit shall be posted in accordance with such section, and no other permits shall be posted in any location readily visible to the public, except as provided in section 3301.9.5 of the New York city building code.

**§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 and submittal documents.** All work shall conform to the approved construction and submittal 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.

**§28-105.12.7.1 Insurance coverage for adjacent properties.** A person who obtains a permit for construction or demolition operations shall, at such person's own expense, procure and maintain for the duration of the operations, insurance of a kind and in an amount specified by rule of the department, to insure any and all adjacent property owners and their lawful occupants fully for all risks of loss, damage to property or injury to or death of persons, arising out of or in connection with the performance of the proposed work. Such person shall submit proof of insurance to the department when applying for a permit for construction or demolition work.

**§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**

**§28-106.1 Asbestos certification required.** The commissioner shall not issue a permit for the demolition or alteration of a building constructed pursuant to plans submitted for approval on or before April 1, 1987, unless the applicant submits such certification relating to asbestos as may be required by the rules of the New York city department of environmental protection.

**§28-106.1.1 Full demolition permit.** The commissioner shall not issue a full demolition permit unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection that (i) the building is free of asbestos containing material, or (ii) the commissioner of environmental protection, has issued a variance from this requirement in accordance with subdivision (o) of section 24-146.1 of the administrative code and the rules of the department of environmental protection, subject to the requirement that demolition work will be performed only in parts of the building that are certified free of asbestos containing material. The full demolition permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the demolition work.

**Exception:** This section 28-106.1.1 shall not apply to full demolition performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work or full demolition with asbestos in place authorized pursuant to 12 NYCRR 56-11.5.

**§28-106.1.2 Alteration permit for the removal of one or more stories.** The commissioner shall not issue an alteration permit for the removal of one or more stories of a building unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection that (i) the stories to be removed are free of asbestos containing material and that no abatement activities will be performed anywhere in the building concurrently with the

removal work authorized by such permit or (ii) the commissioner of environmental protection has issued a variance from these requirements in accordance with subdivision (o) of section 24-146.1 of the administrative code and the rules of the department of environmental protection, subject to the requirement that work authorized by the alteration permit will be performed only in parts of the building that are certified free of asbestos containing material. The alteration permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the work.

**Exception:** This section 28-106.1.2 shall not apply to removal of one or more stories performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work.

**§28-106.2 Construction and maintenance of asbestos containment structures and other temporary structures or work required for asbestos abatement activities.** Notwithstanding any other provision of this code, the construction and maintenance of asbestos containment structures, decontamination system enclosures and other temporary structures or work performed in the course of and only for the purpose of asbestos abatement activities shall comply with this section and the rules of the New York city department of environmental protection relating to such temporary structures and work and with article 30 of the New York state labor law and rules adopted pursuant to such article.

**§28-106.2.1 Materials.** The rules of the New York city department of environmental protection relating to materials used in the construction of temporary structures for asbestos abatement activities shall contain a provision requiring such structures to be non-combustible or flame resistant in compliance with reference standard NFPA 255-06 or NFPA 701-99, as such standards may be modified by local law or by the department of buildings pursuant to applicable rules.

**§28-106.3 Permit exemption.** Except as otherwise provided by rule, work performed in the course of and only for the purpose of an asbestos project that is required to be permitted pursuant to section 24-146.3 of the administrative code shall be exempt from the permit requirements of this code.

**§28-106.4 Definitions.** For the purposes of this article, the terms "asbestos" and "asbestos project" 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, nor issue an initial or reinstated permit in connection therewith, for the alteration or demolition of a single room occupancy multiple dwelling except as set forth in this article. Applications for post approval amendments to construction documents are subject to this article where the application proposes a change within a covered category of work as set forth in section 28-107.3.

**§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, other than a lodging house, containing fewer than nine sleeping rooms, rooming units, single room occupancy units, or hotel units 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 or preservation 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 the interior or the entrance to 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, nor issue an initial or reinstated permit in connection therewith, 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 the term owner 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 current 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.** Applications for a certification of no harassment shall be made 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.
6. Covered mall buildings and open mall buildings designed pursuant to section 402 of the New York city building code.

**§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 application 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 and standby 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 the work 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;
19. Such features requiring special sequencing in order to maintain safe conditions with a written description of those sequences;
20. A statement that prior to performing any work on the project all workers have successfully completed the training required by section 3310.10.2 of the New York city building code; and
21. A statement that all workers employed on the construction site will receive a site-specific orientation program required by section 3310.10.1 of the New York city building code.

**§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 erection of certain temporary structures and temporary uses may be authorized as set forth in sections 28-111.1.1 and 28-111.1.2.

**§28-111.1.1 Permits for the erection and use of temporary structures.** The commissioner is authorized to issue a permit for the erection of temporary structures including but not limited to tents, grandstands, platforms, reviewing stands, outdoor bandstands, stages and similar miscellaneous structures and equipment, and for the temporary use of such structures. Such permits shall be limited as to time of service or use, but in no event shall be permitted for more than 90 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 m<sup>2</sup>) 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 m<sup>2</sup>), including connecting areas or spaces with a common means of egress or entrance, for not more than 30 days.

**§28-111.1.2 Letters authorizing temporary uses.** The commissioner is authorized to issue a letter authorizing the temporary use of outdoor or indoor spaces provided the space shall be occupied in a manner that will not endanger public safety, health, or welfare. Such letters authorizing the temporary use shall be limited as to time of service or use, but shall not be permitted for more than 90 days. The commissioner may grant extensions for demonstrated cause.

**§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 or letter of authorization 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.

**§28-111.6 Place of assembly.** Notwithstanding any inconsistent provision of this article the use of a temporary structure or the temporary use of space as a place of assembly shall require a temporary place of assembly certificate of operation issued pursuant to section 28-117.2.

## 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 current deed holder 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**

PERMIT TYPE	FILING FEE	RENEWAL FEE	COMMENTS
<b><i>New Buildings</i></b>			
<p>New building work permit: One-, two- or three-family dwelling, where no existing building elements are to be retained in place as part of the new building.</p> <ul style="list-style-type: none"> <li>Subsequent applications related to initial new building work permit application, filed prior to the first temporary certificate of occupancy (TCO), or the final certificate of occupancy if no TCO is issued.</li> </ul>	<p>\$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.</p> <p>\$100</p>	<p>\$100</p> <p>\$100</p>	<p>For the purposes of this fee schedule item, “building elements” means any portion of an existing building or structure, including but not limited to party walls foundations, footings, piles and slabs on grade.</p>
New building work permit: One-, two- or three-family dwelling, where any existing building elements are to be retained in place as part of the new building, pursuant to section 28-101.4.5.	<p>Minimum Filing Fee - \$170</p> <p>Minimum filing fee for the first five thousand dollars or fraction thereof, of the cost of alteration; plus \$5.15 for each one thousand dollars, or fraction thereof, of cost of alterations in excess of five thousand dollars.</p>	\$100	For the purposes of this fee schedule item, “building elements” means any portion of an existing building or structure, including but not limited to party walls foundations, footings, piles and slabs on grade.
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.	\$100	\$100	
<p>New building work permit: All other new buildings, where no existing building elements are to be retained in place as part of the new building.</p> <ul style="list-style-type: none"> <li>Subsequent applications related to initial new building work permit application, filed prior to the first temporary certificate of occupancy (TCO), or the final certificate of occupancy if no TCO is issued.</li> </ul>	<p>\$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.</p> <p>\$100</p>	<p>\$100</p> <p>\$100</p>	<p>For the purposes of this fee schedule item, “building elements” means any portion of an existing building or structure, including but not limited to party walls foundations, footings, piles and slabs on grade.</p>



PERMIT TYPE	FILING FEE	RENEWAL FEE	COMMENTS
New building work permit: All other buildings, where any existing building elements are to be retained in place as part of the new building, pursuant to section 28-101.4.5.	Minimum Filing Fee - \$280 Minimum filing fee for the first three thousand dollars, or fraction thereof, of the cost of alteration; 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.	\$100	For the purposes of this fee schedule item, "building elements" means any portion of an existing building or structure, including but not limited to party walls foundations, footings, piles and slabs on grade.
<b><i>Alterations</i></b>			
Alteration work permit: One-, two- or three-family dwelling <ul style="list-style-type: none"> <li>Alteration Type 1</li> <li>Alteration Type 2</li> <li>Alteration Type 3</li> <li>Limited Alteration Application</li> </ul>	Minimum Filing Fee - \$170 Minimum Filing Fee - \$130 Minimum Filing Fee - \$130 Minimum Filing Fee - \$130  Minimum filing fee for the first five thousand dollars, or fraction thereof, of the cost of alteration; plus \$5.15 for each one thousand dollars, or fraction thereof, of cost of alterations in excess of five thousand dollars.	\$100	
Alteration work permit: 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. <ul style="list-style-type: none"> <li>Alteration Type 1</li> <li>Alteration Type 2</li> <li>Alteration Type 3</li> <li>Limited Alteration Application</li> </ul>	Minimum Filing Fee - \$280 Minimum Filing Fee - \$225 Minimum Filing Fee - \$195 Minimum Filing Fee - \$195  Minimum filing fee for the first three thousand dollars, or fraction thereof, of the cost of alteration; 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.	\$100	Such alterations work shall include: <ul style="list-style-type: none"> <li>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.</li> <li>Installation or alteration of elevators, escalators, amusement devices and other devices regulated under this code, except those filed under a new building application.</li> </ul>
Permit to install or alter service equipment except plumbing and fire suppression piping service equipment.	Filing fee calculated as for respective building alteration.	\$100	

PERMIT TYPE	FILING FEE	RENEWAL FEE	COMMENTS
Permit to install, alter or replace oil-burning equipment: <ul style="list-style-type: none"> <li>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.</li> <li>In all other conditions.</li> </ul>	\$130  \$65	\$100  \$100	
<b>Other</b>			
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.	\$10 for each two thousand square feet of area or fraction thereof, but not less than \$130.	\$100	
Permit for golf driving range.	\$7.50 for each twenty thousand square feet of area or fraction thereof, but not less than \$130.	\$100	
Accessory building to golf driving range, not to exceed one hundred forty-four square feet.	\$130	\$100	
Permit for demolition and removal.	Multiply building frontage in feet or fraction thereof × number of stories of the building × \$2.60, but not less than \$260. For corner lot, use the longer building frontage.	\$100	
Curb cut, private dwelling	\$3 for each linear foot including splay; minimum \$130		
Curb cut, other	\$6 for each linear foot including splay; minimum \$130		
Filing of post-approval amendments to existing applications.	The greater of \$100 or the fees for the additional scope or cost of work as calculated pursuant to this Table 28-112.2.		
<b>Signs</b>			
Permit to erect, install or alter sign: Ground sign.	Filing fee calculated as for respective building alteration, plus \$5 for each one hundred square feet of surface area or fraction thereof but not less than \$35.		Each face of any sign, when fronting on different streets, shall be treated as a separate sign.
Permit to erect, install or alter sign: Roof sign having a tight, closed or solid surface.	Filing fee calculated as for respective building alteration; plus \$15 for each one hundred square feet of surface area, or fraction thereof, but not less than \$70.	\$100	Each face of any sign, when fronting on different streets, shall be treated as a separate sign.
Permit to erect, install or alter sign: Roof sign without a tight, closed or solid surface, extending to a height of not more than thirty-one feet above roof level.	Filing fee calculated as for respective building alteration; plus \$15 for each one hundred square feet of surface area, or fraction thereof, but not less than \$100.	\$100	Each face of any sign, when fronting on different streets, shall be treated as a separate sign.

PERMIT TYPE	FILING FEE	RENEWAL FEE	COMMENTS
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.	Filing fee calculated as for respective building alteration; plus \$25 for each one hundred square feet of area, or fraction thereof, but not less than \$135.	\$100	Each face of any sign, when fronting on different streets, shall be treated as a separate sign.
Permit to erect, install or alter sign: Illuminated sign projecting beyond street line having thirty square feet or less on one side.	Filing fee calculated as for respective building alteration.	\$100	Illuminated sign is subject to annual use fee: \$45.
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.	Filing fee calculated as for respective building alteration.	\$100	Illuminated sign is subject to annual use fee: \$70.
Permit to erect, install or alter sign: Illuminated sign projecting beyond street line and having more than fifty square feet on one side.	Filing fee calculated as for respective building alteration.	\$100	Illuminated sign is subject to annual use fee: \$.075 for each square foot or part thereof annually, but not less than \$100.
Maintenance permit for outdoor signs.	As provided by department rules.		
<b><i>Temporary Structures</i></b>			
Sidewalk shed	\$160 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.	\$100	
Scaffold	\$160	\$100	
Construction Fence	\$160		
Permit for temporary shed, railing, footbridge, catch platform, building sidewalk shanty, over-the-sidewalk chute.	\$160 for each permit.	\$100	
Permit for temporary structure other than those temporary structures listed above, including but not limited to tents, grandstands, stages.	For the initial 30 days of permit duration: \$130 for the first one thousand square feet or fraction thereof; plus \$0.10 for each square foot or fraction thereof in excess of one thousand square feet; \$100 for each additional 30 day period of permit duration.	\$100 for each additional 30 days.	
<b><i>Reinstatement of Applications/Permits</i></b>			
Application/permit reinstatement fees: <ul style="list-style-type: none"> <li>Prior to first permit.</li> <li>Following first permit issuance but prior to commencing work.</li> <li>Following first permit, with work partially complete.</li> </ul>	Full fee at the rate in effect on the date of reinstatement. Full fee at the rate in effect on the date of reinstatement.  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.		

**§28-112.3 Building permit valuations.** An estimate of the cost of construction shall be provided at the time of application for construction document approval or, where no construction documents are required, at the time of application for a permit. Such costs shall include the total value of work proposed, including but not limited to materials, equipment and labor, with reasonable allowances for profit and overhead. If, in the opinion of the department, the cost is underestimated, the application shall be denied, unless the applicant can show detailed estimates to meet the approval of the department. A final affidavit with the total actual cost of construction, as built or installed, shall be submitted prior to signoff. The initial, amended and 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 and report filing fees.** Aside from the fees covered under permit fees above, the following inspection and report filing 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. See Table 28-112.7.1.

**TABLE 28-112.7.1**

<b>EQUIPMENT TYPE</b>	<b>FILING FEE</b>	<b>RENEWAL FEE</b>	<b>COMMENTS</b>
<p>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.</p> <p>Amendment to a configuration.</p>	<p>\$2500 when testing has been monitored and certified by a competent individual or group, other than the manufacturer, acceptable to the commissioner; \$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.</p> <p>One-half the original configuration fee.</p>		<p>Additional configurations shall be subject to the same fee as the original configuration.</p>
Prototype approval of a mobile crane with a hydraulic boom.	\$4000		
Certificate of approval for mobile crane with a boom less than two hundred feet in length; fee also includes initial certificate of operation.	\$500	\$250 annually	The boom length as herein specified shall include the jibs and any other extensions to the boom.
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.	\$1000	\$250 annually	The boom length as herein specified shall include the jibs and any other extensions to the boom.
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.	\$2000	\$400 annually	The boom length as herein specified shall include the jibs and any other extensions to the boom.
Certificate of approval for mobile crane with a boom four hundred feet or more in length; fee also includes initial certificate of operation.	\$3000	\$400 annually	The boom length as herein specified shall include the jibs and any other extensions to the boom.
Certificate of approval for master climber and tower cranes and derricks, regardless of length; fee also includes initial certificate of operation.	\$3000	\$400 annually	
Certificate of approval for all other cranes; fee also includes initial certificate of operation.	\$1000	\$250 annually	
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.	\$300	\$200 annually	The boom length as herein specified shall include the jibs an any other extensions to the boom.
Certificate of operation-sign hanger, fifty-one feet to one-hundred thirty five feet with capacity of 3 tons or less.	\$250	\$200 annually	
New certificate of approval, when the boom or extension thereof is replaced or altered.	The fee shall be the full fee required for testing a new crane or derrick with a boom or extension of the same size		

EQUIPMENT TYPE	FILING FEE	RENEWAL FEE	COMMENTS
	and design as the replacement boom or extension thereof.		
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.	\$100		
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.	\$250 during business hours; \$750 outside business hours; upon written request of the applicant.	\$100	
All other on-site inspections of cranes.	\$150	\$100	
Amendment to an application for certificate of on-site inspection.	\$100		
Application for waiver of on-site inspection of mobile crane or derrick.	\$100		
Notification of Outrigger Beam Installation or dismantling	As provided by department rules		
Notification of use, installation or dismantle of all cranes	As provided by department rules		

§28-112.7.2 Report filing fees. See Table 28-112.7.2.

**TABLE 28-112.7.2**

REPORT TYPE	FILING FEE	RENEWAL FEE	COMMENTS
Filing fee for report of critical examination of exterior walls and appurtenances thereof.	As provided by department rules.		
Filing fee for inspection report of potentially compromised buildings or structures.	As provided by department rules.		
Filing fee for report of condition assessment of retaining walls.	As provided by department rules.		
Filing fee for periodic boiler inspection report.	\$30 for each boiler.		

§28-112.7.3 Other inspection fees. See Table 28-112.7.3.

**TABLE 28-112.7.3**

INSPECTION TYPE	FILING FEE	RENEWAL FEE	COMMENTS
Each inspection of a temporary amusement device	\$100		
Marquee inspection.	\$15 annually for each one hundred square feet or fraction thereof.		---
Place of assembly inspection, including following a violation.	\$100 each inspection, each place of assembly.		---
Search inspection of a building with a frontage of twenty-five feet or less and a depth of one hundred feet or less. <ul style="list-style-type: none"> <li>Additional fee for building with frontage exceeding twenty-five feet.</li> <li>Additional fee for building with depth exceeding one hundred feet.</li> </ul>	\$20 for each floor for the first three floors; \$10 for each additional floor; \$100 minimum total. Increase above fee by 40% for each floor for each additional twenty-five feet or fraction thereof. Increase above fee by 25% for each floor for each additional twenty-five feet or fraction thereof.		A basement or a cellar shall count as a floor. Where both a basement and a cellar exist, the cellar shall not count as a floor in computing fee.

**§28-112.7.4 Equipment inspection fees.** See Table 28-112.7.4.

**TABLE 28-112.7.4**

EQUIPMENT INSPECTION TYPE	FILING FEE	RENEWAL FEE	COMMENTS
<ul style="list-style-type: none"> <li>High-pressure boiler periodic inspection.</li> <li>Reinspection fee following a violation.</li> <li>Equipment inspection fee: Each elevator or other device regulated by this code.</li> </ul>	\$65 for each inspection, for each boiler. As provided by department rules, \$100 for each inspection, for each device.		

**§28-112.8 Special fees.** The department shall be entitled to charge the following special fees in accordance with Table 28-112.8:

**TABLE 28-112.8**

SERVICE TYPE	FEE	RENEWAL S	COMMENTS
Accelerated plan review	As provided by department rules		
Accelerated inspection	As provided by department rules		
Certificate of occupancy request	As provided by department rules		
Accelerated certificate of occupancy request	As provided by department rules		
Application for temporary certificate of occupancy	\$100	\$100	
Reinspection made necessary by a failure to correct a	As provided by department rules		



condition or respond to a request to correct that results in issuance of a violation or other order			
Temporary place of assembly certificate of operation	\$100	\$100	
Temporary use letter (does not include fees for any associated temporary structure)	For the initial 30 days of duration \$100. \$100 for each additional 30 day period of permit duration.	\$100 for each additional 30 days	
Temporary use letter for place of assembly	\$250		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.
Subpoena	As provided by applicable state or federal law		
Place of assembly certificate of operation	\$200		\$100 amendment
Ordinary plumbing work	\$100 for each report		
Limited plumbing alteration	Filing fee as calculated for respective building alteration		
Limited sprinkler and/or standpipe alteration	Filing fee as calculated for respective building alteration		
Limited oil burner/boiler alteration	Filing fee as calculated for respective building alteration		
<b><i>Approval or acceptance of materials, assemblies and equipment</i></b>			
Application for approval of materials	\$600		
Application for amendment of prior approval of materials	\$500		
Application for change of identification (change of ownership, corporate name or name of product) of prior approval	\$350		
Application for approval of materials evaluated by an approved testing agency	\$200		
<b><i>Other fees</i></b>			
Certificate of pending violation: Multiple and private dwellings	As provided by department rules		
Certificate of pending violation: All other buildings	As provided by department rules		
Certified copy of license	As provided by department rules		
Records Management of applications for new buildings and alterations and associated documentation for certificates of occupancy, temporary certificates of occupancy, "compliance reports" and/or letters of completion, as required by rule of the commissioner	As provided by department rules		
Preparing only or preparing and certifying a copy of a record or document filed in the department	As provided by department rules		
Notification of, the installation or removal of an adjustable suspended scaffold	\$35		
Issuance of a core certificate of completion, which indicates	\$100		

completion of the building structure, the elevator systems, stairs, and all fire safety systems			
Issuance of letter of no objection to or classification of a specified occupancy of a premises, as follows: <ul style="list-style-type: none"> <li>1, 2, or 3 family homes</li> <li>All other premises</li> </ul>	\$25 \$100		
Fees for after-hours work variances. <ul style="list-style-type: none"> <li>The initial application fee for an after-hours variance</li> <li>The renewal application fee for an after-hours variance</li> </ul> For each day for which such variance is granted or renewed	\$100 \$100 \$80		
Application for approved agency approval	As provided by department rules		
Application for special inspector authorization	As provided by department rules		
Failure to keep a scheduled plan examination appointment	As provided by department rules		
Failure to keep a scheduled inspection appointment	As provided by department rules		

**§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.

**§28-112.10 Waiver of application, permit and inspection fees for certain work arising out of the storm that occurred on October 29 and 30, 2012.** The commissioner shall waive the fees that would otherwise be required to be paid by this code, the electrical code or the rules of the department for applications, permits and inspections for certain work arising out of the storm that occurred on October 29 and 30, 2012 as provided in subsections 28-112.10.1 and 28-112.10.2.

**§28-112.10.1 Eligible buildings.** For the purposes of this article, eligible buildings that, following the storm and pursuant to an inspection program established by the department under an emergency order of the Mayor, are designated by the department after inspection through a notation on the department's records and/or by the posting of a red placard warning on the building or premises as seriously damaged and unsafe to enter or occupy or completely demolished and/or washed away. With respect to eligible buildings, fees associated with applications, permits and inspections shall be waived for alteration work, demolition work, construction of new buildings and associated work, including but not limited to associated electrical and plumbing work. The commissioner may request the applicant to submit additional information relating to the damage. Waiver of such fees pursuant to this section shall be applicable for jobs where the initial application for construction document approval or, if no construction documents are required, application for permit is submitted on or after October 30, 2012 and on or before October 31, 2014.

**§28-112.10.2 Storm related damage to electrical and plumbing systems.** In buildings other than eligible buildings, fees shall be waived only for applications, permits and inspections for work related to plumbing and electrical systems damaged by such storm. Applicants must submit certification by a licensed master electrician or a licensed master plumber or fire suppression piping contractor that the proposed work is related to such storm damage. The commissioner may request the applicant to submit additional information relating to the damage. Waiver of such fees pursuant to this section shall be applicable for jobs where the initial application for construction document approval or, if no construction documents are required, application for permit is submitted on or after October 30, 2012 and on or before December 31, 2013.

**§28-112.11 Waiver of application, permit and inspection fees for work funded under the “Build It Back” program.** The city has implemented a disaster recovery program known as the Build It Back program that uses federal Community Development Block Grant Disaster Recovery funds to aid in the recovery of residential property damaged or destroyed in the severe storm known as Sandy that occurred on October 29 and 30, 2012. To assist in such recovery, the commissioner shall waive fees, which would otherwise be required to be paid to the department by this code, the electrical code or the rules of the department, in connection with applications, permits and inspections for work that is officially approved and funded under the Build It Back program. The waiver provided for in this section shall apply only to work performed on property that is classified as residential and to fees payable on or after July 1, 2014. With respect to work on a mixed use building, fees payable on or after such date may only be waived for work on the residential units of such building and portions of such building that serve the residential units.

## **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 related 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 July 1, 2008 may continue to be used to the extent that such approval is not inconsistent with the requirements or standards of this code, unless specifically amended or repealed by the commissioner.

**§28-113.3 Approval procedure.** Approval of materials pursuant to section 28-113.2 shall be in accordance with procedures set forth in this code and 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.** When required by the commissioner, 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.** When required by the commissioner, 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 or other equivalent approved supporting documentation.

**§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 posted on the department's website or shall be made available for public inspection at appropriate times.

**§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 surveillance inspections, 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.

**§28-113.5 Volatile organic compounds emissions in carpet and carpet cushion.** On and after July 1, 2013 carpet and carpet cushion as defined in section 17-1401 of the administrative code shall comply with the limits on volatile organic compound emissions set forth in chapter 14 of title 17 of such code.

## **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 INSPECTION AGENCIES AND SPECIAL INSPECTORS**

**§28-115.1 General.** Special inspection agencies are approved agencies and shall be subject to the provisions of article 114 of this chapter. Special inspection agencies and 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 or department rules.

**§28-115.2 Disqualification.** The commissioner may disqualify a special inspection agency or a special inspector from performing special inspections pursuant to this code for cause. The special inspection agency or special inspector shall be given prior notice of the proposed disqualification and the opportunity to contest such action. A list of special inspection agencies and 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 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.

**§28-116.1.1 Defective work and discrepancies with approved construction documents.** An approved agency conducting inspections shall report defective work and discrepancies with the approved construction documents to the contractor and, when applicable, to the superintendent of construction, for correction. The approved agency shall report uncorrected discrepancies and defective work to the registered design professional of record and the owner in writing.

**§28-116.1.2 Hazardous conditions.** The approved agency shall report all conditions noted as hazardous to life, safety or health that are not immediately corrected to the immediate attention of the commissioner.

**§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, progress inspections and other inspections required during the progress of work.** After the issuance of a work permit, special inspections, progress 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 work. 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 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 work 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 and progress inspection of fabricated items.** Where fabrication of regulated products is performed on the premises of a fabricator's shop, special or progress inspection of the fabricated items is required. The approved agency 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 approved agency shall review the procedures for completeness and adequacy relative to the code requirements for the fabricator's scope of work.

**Exceptions:**

1. Work that is subject to progress inspections and performed on the fabricator's premises shall not be subject to progress inspections where the fabricator is approved by the commissioner in accordance with section 28-116.6.
2. Work that is subject to special inspections and performed on the fabricator's premises shall be inspected by the special inspection agency in accordance with Section 1704.2.2.3 of the New York city building code where the fabricator is approved by the commissioner in accordance with section 28-116.6.

**§28-116.2.3.2 Special inspection of raising and moving of a building.** Where the lowest above-grade floor or the lowest subgrade floor of a building is to be raised, lifted, elevated or moved, special inspection of such work is required. The permit holder shall notify the department in writing at least 48 hours before the commencement of such work.

**§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.

**Exception:** For amended certificates of occupancy subject to section 28-118.16.2, the term construction documents, as used in section 28-116.2.4.1, shall consist of an accurate and complete final lot survey made by a land surveyor, and floor and roof plans showing, at a minimum, compliance with exit requirements in accordance with this code.

**§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 ensure 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 approved agency performing the inspection shall report defective work and discrepancies with the approved construction documents to the contractor and, when applicable, to the superintendent of construction, for correction. The approved agency shall report uncorrected discrepancies and defective work to the registered design professional of record and the owner in writing. The approved agency shall report all conditions noted or observed as hazardous to life, safety or health that are not immediately corrected to the immediate attention of the commissioner. 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 or entity 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.

**§28-116.3.1 Additional notifications for special inspections.** The permit holder shall also notify the relevant special inspection agency in writing at least 72 hours prior to the commencement of any work requiring special inspection.

**§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 necessary steps required by the department for the issuance of such 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, ventilation and exhaust 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 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.

**§28-116.6.1 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, including an outdoor 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 this code or the 1968 building code as applicable 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 or the 1968 building code as applicable 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 the place of assembly 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 department issued place of assembly permit or place of assembly certificate of operation shall be valid until its expiration, at which time a new place of assembly certificate of operation shall be required in accordance with the provisions of this article and with the filing requirements of the department.

**§28-117.1.2 New certificate required.** The following changes to a place of assembly shall require a new place of assembly certificate of operation instead of an amendment filed in accordance with section 28-117.1.3:

1. For a department issued place of assembly permit or place of assembly certificate of operation that does not have a nine-digit job number, any change of zoning use group, assembly occupancy group A-1 through A-5, or any of the changes set forth in section 28-117.1.3.
2. For all other department issued place of assembly permits or place of assembly certificates of operation, any change of zoning use group or assembly occupancy group A-1 through A-5.

**§28-117.1.3 Amendments.** No change shall be made to a place of assembly that is inconsistent with the most recently issued place of assembly certificate of operation or renewal unless an amendment to such certificate is filed with and approved or accepted by the department. Changes that require an amendment include any of the following:

1. Any physical change requiring an alteration permit to be issued by the department.
2. Any amendment to the plan for seating and other moveable furnishing, in accordance with section 28-117.1.



3. Any change to the name of the establishment.

**§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.

**Exception.** Applications for temporary certificates of operation for place of assembly space in prior code buildings shall be permitted to comply with the 1968 building code provided that public safety is not jeopardized thereby.

**§28-117.3 Duration of certificate.** A place of assembly certificate of operation shall be issued by the department and shall be effective for one year after its issuance. Thereafter, such certificate shall be effective only for periods of time during which there is in effect an annual place of assembly permit issued by the fire department pursuant to section 105.6 of the New York city fire code.

**§28-117.4 Security guards.** In the case of a certificate holder that offers for sale food and/or beverages for on-premises consumption, but not including establishments operated by a not-for-profit corporation, and employs or uses the services of a security guard, as that term is defined in subdivision six of section eighty-nine of the general business law, such certificate holder shall comply with the provisions of article 7-A of the general business law, shall obtain proof that such security guard is registered pursuant to article 7-A of the general business law, shall maintain such proof in a readily available location, in accordance with rules promulgated by the commissioner during all hours in which such place of assembly is open to the public, shall maintain a roster of all security guards working at any given time when such place of assembly is open to the public, and shall require each security guard to maintain on his or her person proof of registration at all times when on the premises.

**§28-117.4.1 Presumption.** For purposes of this section, there shall be a rebuttable presumption that a person employed or whose services are retained at a place of assembly is a security guard if his or her job functions include:

1. The monitoring or guarding of the entrance or exit of such place of assembly to manage ingress and egress to such place of assembly for security purposes during the hours of operation of such establishment; and/or
2. Protection of such place of assembly from disorderly or other unlawful conduct by patrons of such place of assembly.

**§28-117.4.1.1 Presumption not applicable to owner.** The rebuttable presumption in section 28-117.4.1 shall not apply to an individual who is an owner of the establishment as described in section 28-117.4 that has received a place of assembly certificate of operation.

**§28-117.4.2 Responsibility for violations.** Notwithstanding any provision of this section, only the holder of a certificate of operation shall be liable for violations of this article that relate to such holder's obligations regarding security guards.

**§28-117.4.3 Enforcement.** In addition to employees of the department, employees of the police department and the department of consumer affairs shall have the authority to enforce the provisions of this article regarding security guards.

**§28-117.4.4 State liquor authority reporting.** The enforcement agency shall report any violation of the provisions of this section relating to security guards to the state liquor authority if the holder of the certificate of operation holds a license pursuant to the alcoholic beverage control law.

**§28-117.5 Outdoor places of assembly.** The commissioner shall not issue a certificate of operation to an outdoor temporary or permanent place of assembly, including, but not limited to, tents, platforms, stages and outdoor assembly seating, unless the department determines that the space complies with the provisions of the code.

## **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, 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 or amended certificate of occupancy.

**§28-118.3.2.1 Changes in the address, block, lot, or zoning lot.** When changes are made in the address of the structure, block and/or lot numbers or metes and bounds of the zoning lot that are inconsistent with the certificate of occupancy, the owner shall obtain a new or amended certificate of occupancy within one year.

**§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.** The provisions of sections 28-118.16.1 through 28-118.16.2 shall apply to amended certificates of occupancy.

**§28-118.16.1 Buildings exceeding three stories in height and change does not exceed 20 percent of total floor area.** 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.

**§28-118.16.2 Change in address of the structure, block and lot numbers or metes and bounds of a zoning lot subsequent to the issuance of a certificate of occupancy.** Where no change is made to a building, open lot or portion thereof inconsistent with the last issued certificate of occupancy, an amended certificate of occupancy may be issued to reflect a change in the address of the structure, block and lot numbers or the metes and bounds of the zoning lot. Notwithstanding any other provisions of law, removal of violations and payments of outstanding penalties are not required prior to issuance of an amended certificate of occupancy in accordance with this section 28-118.16.2.

**§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.

**§28-118.20 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.

**§28-118.21 Live loads posted.** Where the live loads for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 50 psf (2.40 kN/m<sup>2</sup>), a certificate of occupancy required by this article shall not be issued until such design loads shall be conspicuously posted by the owner in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such signs.

**Exception:** This section 28-118.21 shall not apply to prior code buildings.

## **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.