

TITLE 26 HOUSING AND BUILDINGS

CHAPTER 1 DEPARTMENT OF BUILDINGS

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SUBCHAPTER 1 GENERAL PROVISIONS

§[641-1.0] 26-101 Definitions.-For the purposes of this chapter:

1. The term "multiple dwelling" shall mean such dwelling as defined by section four of the multiple dwelling law;
2. The term "building" shall mean any building, structure, premises, or part thereof;
3. The term "service equipment" shall mean equipment, and all components thereof, which provide sanitation, power, light, heat, ventilation, air conditioning, refuse disposal, fire-fighting, transportation or other facilities for buildings.
4. The term "commissioner" shall mean the city commissioner

of buildings.

5. The term "department" shall mean the city department of buildings.

§[641-2.0] 26-102 Seal; judicial notice.-

The commissioner may design and adopt a seal for the department, and cause the same to be used in the authentication of the orders and proceedings of the department, and for such other purposes as he or she may prescribe. The courts shall take judicial notice of such seal, and of the signature of the commissioner and the deputy commissioners of such department.

§[641-3.0] 26-103 Records in department.-

The department shall keep records of every building in the city. Such records shall be kept in the manner and form prescribed by the commissioner.

****§[641-4.0] 26-104 Complaint book.** -The department shall keep a general complaint book, or several such books, in which may be entered any complaint made by any person in reference to any building. Such entry 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 book shall be open to public examination during the office hours of the department, subject to such regulations as the commissioner may prescribe. The commissioner shall cause all complaints to be investigated.

**** Local Law 91-1989.**

§[641-5.0] 26-105 Taxpayers' requests for institution of actions.- Taxpayers' requests for institution of actions for liens upon buildings shall be presented to the department.

§[641-6.0] 26-106 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.

§[641-7.0] 26-107 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.

§[641-8.0] 26-108 Reports from different institutions and agencies. -

a. All dispensaries and hospitals in the city shall make weekly statements to the department as to the cases of sickness received in such hospital or treated in such

dispensary from each building. Such statement shall show the location of such building by street and number, the nature of the sickness treated, whether the patient was an adult or child and the date of the treatment.

b. The police department shall furnish to the department a weekly statement of the number of arrests of persons living in such buildings. Such statement shall show the location of such building, by street and number, the offense with which the person is charged, the age and name of the offender, and such other information as the department may require. The commissioner shall prescribe and furnish blank forms for making such statements.

c. Such department may require reports and information of such facts relative to the condition of persons residing in such buildings as the commissioner may deem useful in carrying out the duties of the department. Such reports also may be required from all dispensaries, hospitals, charitable or benevolent societies, infirmaries, prisons and schools, and from the managers, principals and officers thereof. The managers, principals and officers of such institutions shall give such information promptly and shall make such reports, verbally or in writing, as the commissioner may require.

§[641-9.0] 26-109 Annual report. -The annual report of the department shall be published in book form for public information. Such report shall contain the statistics kept by the department.

§[641-10.0] 26-110 Publication of statistics and other data.- The commissioner may provide for the publicity of the papers, files, reports, records and the proceedings of the department whenever he or she deems it necessary for the public good.

§[642-1.0] 26-111 Uniforms and badges.- The commissioner may provide or designate a suitable uniform to be worn by inspectors. He or she shall also provide a metal badge with a suitable inscription thereon, and shall require that such badge shall be worn by the inspectors, officers and other employees of the department.

***§[642-2.0] 26-112 Falsely impersonating an officer.-**

Any person who falsely represents himself or herself as an officer, inspector or employee of the department, or a not-for-profit corporation performing services on behalf of the department pursuant to article twenty-seven of subchapter one of chapter one of title twenty-seven of the code, or as acting under the authority of the department or of such not-for-profit corporation, or who without authority uses, wears or displays a shield or other insignia or emblem such as is worn by such officer, inspector or employee, shall be guilty of a misdemeanor.

***Local Law 107-1993.**

§[642-3.0] 26-113 Subordinates; discipline of.- The commissioner shall have power to punish any employee, for

neglect of duty, or omission to properly perform his or her duty, or for violation of rules, or neglect or disobedience of orders, or incapacity or absence without leave, by forfeiting or withholding compensation for a specified time, or by suspension from duty with or without pay for a period of not exceeding thirty days.

§[642-4.0] 26-114 Certain outside work, employment and financial interests 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, civil engineer, structural engineer, sanitary engineer, carpenter, plumber, iron worker, mason or builder, or any other profession or business concerned with the construction, alteration 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.

§[643a-1.0] 26-115 Notices and orders.-

The commissioner shall have the power to issue notices and orders for enforcing compliance with any law, rule or regulation in respect to any matters under the jurisdiction of the department, and for remedying any condition found to exist in, on or about any building, enclosure or premises, in violation of any law, rule or regulation in respect to any such matters. Each such notice or order issued by the commissioner shall have his or her signature affixed thereto; but the commissioner may authorize any subordinate to affix such signature.

§[643a-2.0] 26-116 Contents of notices and orders.- All notices and orders issued by the commissioner shall, in addition to the statement of requirements, contain a description of the building, premises or property affected; and except for such orders as may be served pursuant to section three hundred twenty-six of the multiple dwelling law, the notice or order shall be addressed to the owner, lessee or occupant of the building, premises or property affected. It shall be unnecessary to designate such owner, occupant or lessee by name in the notice or order; but the premises shall be designated in the address so that the premises may readily be identified.

§[643a-3.0] 26-117 Service of notices and orders. - Except for such orders as may be served pursuant to section three hundred twenty-six of the multiple dwelling law, service of notices and orders issued by the commissioner may be made: (a) by delivery of a copy thereof personally to the owner, lessee or occupant of the building, premises or property affected thereby; or (b) by

delivery of a copy thereof personally to any person of suitable age and discretion in charge or apparently in charge of such building, premises or property, or any building work being executed thereon; or (c) by posting a copy thereof in a conspicuous place upon such building, premises or property and mailing a copy thereof to the owner of such building, premises or property at his or her last known address, in which latter case the service shall be deemed to have been effected three days after the date of mailing.

§[643a-4.0] 26-118 Stop Work notices and orders.- Notwithstanding the provisions of sections 26-115 through 26-117 of this subchapter, a notice or order to stop work may be issued by the commissioner, or his or her authorized representative, at any time when it is found that building work is being executed in violation of the provisions of any law, rule or regulation enforceable by the department, or in a dangerous or unsafe manner.

Such notice or order may be given orally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons executing the work and may require all persons in and about the building or premises to vacate the same forthwith, and also require such work to be done as, in the opinion of the commissioner, may be necessary to remove any danger therefrom. The police department shall, upon the request of the commissioner, assist the department in the enforcement of this section.

Conditions warranting issuance of a stop work order include but are not limited to, the failure to have a construction site safety coordinator present in the course of on-going construction at those sites where department rules and regulations require that a construction site safety coordinator be designated and present; the failure to erect a sidewalk shed (or portions thereof) as required by section 27-1021 of the code, or the removal of a sidewalk shed or portions thereof, when such sidewalk shed is still required pursuant to such section.

In addition to the penalties provided for in this subchapter, failure to comply with a stop work order shall be subject to the payment of a penalty in the sum of five hundred dollars for each day there is non-compliance, to be recovered in a civil action brought in the name of the commissioner; provided, however, this shall not apply to any work performed to remedy an unsafe or hazardous condition.

§[643a-5.0] 26-119 Lis pendens.- The commissioner, after issuing any notice or order, or in any subsequent action or proceeding, may also file a notice of lis pendens, consisting of a copy of the notice or order issued by the commissioner and a notice of the action or proceeding instituted or to be instituted thereon.

§[643a-6.0] 26-120 Enforcement proceedings. -

a. Upon the violation of any law, rule or regulation enforceable by the department, or the failure to comply

with any order issued by the commissioner thereunder, the commissioner may, in his or her discretion, request the corporation counsel to institute legal proceedings to restrain, correct or abate such violation, or to compel compliance with such order; and the corporation counsel shall thereupon institute such actions or proceedings as may be necessary and appropriate for such purposes.

b. Such actions and proceedings may be instituted by the corporation counsel in the name of the city in any court of civil jurisdiction in the city and shall be given preference over pending causes therein. In such actions or proceedings, the city may apply for restraining orders preliminary injunctions or other provisional remedies, with or without notice; and no undertakings shall be required as a condition to the granting or issuing of any such order, injunction or remedy, or by reason thereof.

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

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

§[643a-7.0] 26-121 Certificate of commissioner; presumptive evidence. -In any action or proceeding founded upon a claim by the commissioner that any law, rule or regulation enforceable by the department has been violated, or that a lawful order issued by him or her has not been complied with, a certificate in writing by the commissioner, or his authorized representative shall be presumptive evidence of any matter stated therein.

***§[643a-8.0] 26-122 Non-compliance with order and illegal places of assembly; punishment; penalty.**-Every person who owns or operates a place of assembly without a current permit or emergency lighting as required by law, or who shall fail to comply with an order issued by the commissioner except an order issued pursuant to section 26-126.2; or who shall knowingly violate any requirement of any notice or order of the commissioner, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punishable by a fine not to exceed five thousand dollars, or by imprisonment not to exceed six months, or both. Such person shall also be subject to the payment of a penalty of not more than five thousand dollars to be recovered in a civil action brought in the name of the city in any court of competent jurisdiction or in a proceeding before the environmental control board.

**Local Law 80-1985, language juxtaposed per Ch. 907-1985.*

§[643a-9.0] 26-123 Non-compliance with orders; execution of work by department. -Upon the failure to comply with any order of the commissioner within the time limited thereby, and subject to the provisions of article eight of subchapter three of this chapter, any work required to be executed by such order may be executed by the commissioner through the officers, agents or contractors of the department; and the city shall be reimbursed promptly for all costs and expenses of such work. Such costs and expenses shall become a lien upon the premises involved and named in the commissioner's order, from the time of filing of a notice of lis pendens as provided in section 26-119 of this subchapter; and such lien shall be enforceable in accordance with the mechanics' lien laws applicable in the city.

***§[643a-10.0] 26-124 False statements in certificates, forms, written statements, applications, reports or certificates of correction.** -

a. Any person who shall knowingly make a false statement or who shall knowingly falsify or allow to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or any rule or regulation of any agency promulgated thereunder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment not to exceed six months, or both.

b. Such person shall also be liable for a civil penalty of not less than one thousand dollars nor more than five thousand dollars which may be recovered in a proceeding before the environmental control board. In any such proceeding which relates to a false statement in a certification filed pursuant to section 26-126.2, if an inspection made within six months after the filing of the certification finds a condition constituting a violation which is the same as the condition described in the notice of violation with respect to which such certification was filed, there shall be a rebuttable presumption that the condition described in such notice of violation continued and is the same condition found in the inspection.

[†]c. The provisions of this section shall apply with respect to any certificate, form, signed statement, application or report submitted to a not-for-profit corporation performing services on behalf of the department pursuant to article twenty-seven of subchapter one of chapter one of title twenty-seven of the code.

**Local Law 80-1985, language juxtaposed per Ch. 907-1985.*

[†]Local Law 107-1993.

****§[643a-11.0] 26-125 Violations of building laws: punishments; penalty.** -

a. Except as otherwise provided in subdivisions b and f of

this section, section 26-126 or 26-248 of this title, every person who shall violate any of the provisions of any laws, rules or regulations enforceable by the department or who shall knowingly take part or assist in any such violation shall be guilty of an offense, and upon conviction thereof shall be punishable by a fine of not more than five thousand dollars. Such person shall also be subject to the payment of a penalty of not more than five thousand dollars to be recovered in a civil action brought in the name of the city in any court of record in the city.

b. Notwithstanding any other law, rule or regulation, and in addition to any other penalties provided in this code or elsewhere, any person who shall convert, or knowingly take part or assist in the conversion or permit the maintenance of the conversion of a residence, which is legally approved for occupancy as a one-family, or two-family dwelling, to a dwelling for occupancy by four or more families shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for a period not to exceed one year and by a fine for each dwelling unit added of not less than one thousand dollars nor more than five thousand dollars for the first offense, not less than two thousand five hundred dollars nor more than fifteen thousand dollars for a second offense and not less ten thousand dollars nor more than twenty thousand dollars for a third or subsequent offense.

c. In addition to the penalties provided in subdivision a of this section, any owner who shall fail to file a report pursuant to the provisions of section 27-228.5 or 27-1000 of the code shall be liable for a civil penalty of not less than twenty-five dollars nor more than one hundred dollars per day not to exceed one thousand dollars commencing with the date after which such report was required to be filed with the department and terminating on the date of the filing of such report with the department.

d. In addition to the penalties provided in subdivision a of this section, any owner who shall fail to file a report pursuant to the provisions of section 27-793 of this code shall be liable for a civil penalty of not less than twenty-five dollars nor more than fifty dollars per day, commencing with the day following the date on which such report was required to be filed with the department and terminating on the date of the filing of such report with the department, provided that the maximum amount of such penalty shall not exceed one thousand five hundred dollars for any report for a building greater than six stories and five hundred dollars for any report for a building of six stories or less.

*e. In addition to the penalties provided in subdivision a of this section and notwithstanding the provisions of subdivision d of this section, any owner who files a report pursuant to the provisions of section 27-793 of this code after the date such report was required to be filed with the department but who provides evidence in accordance with rules promulgated by the commissioner that the boiler was inspected in accordance with the

provisions of subdivision b of section 27-793 of this code shall only be liable for a civil penalty of fifty dollars for any report for a building six stories or less and one hundred fifty dollars for any report for a building greater than six stories.

f. As an alternative to the penalties provided in subdivision b of this section, any person who violates the provisions of such subdivision may be subject to the payment of a civil penalty of one thousand dollars per day for each dwelling unit added, commencing on the date such notice of violation was issued and terminating on the date of the filing of a valid certification that the condition constituting the violation has been corrected or the date of final adjudication of the violation, whichever occurs first, to be recovered in a civil action brought in the name of the city in any court of record in the city or returnable to an administrative tribunal of competent jurisdiction. There shall be a rebuttable presumption that the violation continued to exist from the date of the issuance of a notice of violation until the date of adjudication or proof of correction to the satisfaction of the commissioner.

***Local Law 65-1997; Local 62-1991; Local Law 80-1985, language juxtaposed per Ch. 907-1985.*

**Local Law 27-1996.*

*****§26-125.1 Violation of building laws; punishment and penalties for illegal operation of cranes and derricks.-**

a. Any person who:

(1) shall operate a crane or derrick as such terms are defined in section 27-232 of this code without first having obtained a license required to operate such crane or derrick, except for learners operating such crane or derrick in the presence of and under the direct supervision of a licensed operator, pursuant to reference standard 19-2; or (2) is in charge of, in control of, or is either supervising or directing construction activities at a construction site, and who (i) either permits or authorizes the operation of a crane or derrick by a person who he or she either knows or should know does not have a license to operate such equipment, except for learners operating such crane or derrick in the presence of and under the direct supervision of a licensed operator, pursuant to reference standard 19-2; or (ii) either permits or authorizes the operation of a crane or derrick without having first obtained all necessary approvals and permits for the operation of the equipment, or for the work to be performed, shall be guilty of a class B misdemeanor and upon conviction thereof shall be subject to a civil penalty of not more than twenty-five thousand dollars in addition to a sentence not to exceed ninety days.

b. Any person who:

(1) shall operate a crane or derrick as such terms are defined in section 27-232 of this code without first having obtained a license required to operate such crane or derrick, except for learners operating such crane or derrick in the presence of and under the direct supervision of a licensed operator,

pursuant to reference standard 19-2; (2) is in charge of, in control of, or is either supervising or directing construction activities at a construction site, and who (i) either permits or authorizes the operation of a crane or derrick by a person who he or she either knows or should know does not have a license to operate such equipment, except for learners operating such crane or derrick in the presence of and under the direct supervision of a licensed operator, pursuant to reference standard 19-2; or (ii) either permits or authorizes the operation of a crane or derrick without having first obtained all necessary approvals and permits for the operation of the equipment, or for the work to be performed, where such operation results in serious physical injury to another person or persons, as such term is defined in section 10.00 of the penal law, shall be guilty of a class A misdemeanor and upon conviction thereof shall be subject to a civil penalty of not more than one hundred thousand dollars in addition to a sentence not to exceed six months.

c. There shall be no liability under the provisions of this section for the operation of a crane or derrick by any person who has been duly licensed by the department to operate such crane or derrick, or by a learner who operates such crane or derricks in the presence of and under the direct supervision of such person, during the thirty calendar days subsequent to the expiration of such person's license; provided, however, that, for one year after the effective date of this section, there shall be no liability under the provisions of this section for the operation of a crane or derrick by any person who has been duly licensed by the department to operate such crane or derrick, or by a learner who operates such crane or derrick in the presence of and under the direct supervision of such person, during the one year period subsequent to the expiration of such person's license.

d. For purposes of this section, the terms "crane" and "derrick" shall have the meaning as ascribed by section 27-232 of this code.

****Local Law 99-1991.*

§[643a-12.0] 26-126 Violations of zoning resolutions. -

a. The owner, lessee, or occupant of any building in which a violation of the zoning resolution has been committed or shall exist, or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building in which any such violation shall exist, shall be

guilty of a misdemeanor, and where the violation shall be for the construction, alteration, use or occupancy of any building, structure or area set forth within use groups five through eighteen inclusive in a zoning district where such use is not permitted, the person convicted thereof shall be punished by a fine of not less than two hundred fifty dollars nor more than one thousand dollars for the first offense, not less than five hundred dollars nor more than one thousand dollars for a second offense and five thousand dollars for a third, and all subsequent offenses, or for any such offense by imprisonment for not more than ninety days, or by both fine and imprisonment.

b. Any such person, having been served with an order to remove any such violation, who shall fail to comply with such order within ten days after such service or who shall continue to violate any provision of the zoning resolution in the respect named in such order, shall be guilty of a misdemeanor.

c. In addition to the foregoing remedies, the city may maintain an action for an injunction to restrain any violation of such zoning resolution.

*** §[643a-12.1] 26-126.1 Environmental control board; civil penalties. -**

a. In addition to or as an alternative to any of the remedies and penalties provided in subchapters one, two and three of chapter one of this title or chapter one of title twenty-seven any person who shall violate or fail to comply with any of the provisions of subchapters one, two and three of chapter one of this title or chapter one of title twenty-seven or the rules and regulations promulgated hereunder shall, except as otherwise specifically provided in subdivision c of section 26-126.2, be liable for a civil penalty which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before the board. The provisions of sections 26-244, 26-246 and 26-248 relating to notification prior to the commencement of judicial proceedings shall not apply to the recovery of civil penalties in proceedings before the environmental control board.

Except as otherwise specifically provided, such civil penalty shall be determined in accordance with the following schedule:

	First Violation		Second or Subsequent Violation by the respondent of the same provision of law, rule or regulation and, if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violations occurred, at the same premises (all violations committed within an eighteen month period).	
	Minimum (Dollars)	Maximum (Dollars)	Minimum (Dollars)	Maximum (Dollars)
27-118.1.....	250	2,500	1,000	10,000
27-508.3(b).....	0	300	350	1,000
Any Provision of subchapter 19 of chapter 1 of title 27.....	0	5,000	0	10,000
Any provisions of subchapters 1,2, and 3 of chapter 1 of this title and all other provisions of chapter 1 of title 27 or any provisions of the zoning resolution and related rules and regulations.....	0	2,500	0	10,000

(Reference to a section of the code is intended to include any rules and regulations related to such section).

b. For the purposes of the multiple offense schedule, if the respondent is the owner or agent of the building or structure with respect to which the violation occurred or a lessee of the entire building or structure, the term premises shall mean the entire building or structure. If the respondent is the lessee or person in control of a part of such building or structure, the term premises shall mean that part of such building or structure leased to or under the control of the respondent.

c. Notwithstanding any other provision of this section, if the respondent is the owner or agent of the building or structure with respect to which the violation occurred or a lessee of the entire building or structure, a prior violation by the same respondent shall not serve as a predicate for purposes of the multiple offense schedule set forth in this section if the prior violation or the violation for which penalties are to be imposed occurred within an area of the building or structure which, at the time of the violation, was leased to and under the control of a person other than the respondent, except that this provision shall not apply if both the prior violation and the violation for which penalties are to be imposed occurred within areas leased to and under the control of the same lessee. In any proceeding before the board, the burden of proof with respect to this exception shall be upon the respondent.

d. The commissioner may, by rule or regulation, establish a schedule of civil penalties providing a maximum penalty for the violation of each separate provision of law, rule or regulation based on the degree of seriousness of the violation. Such maximum penalties shall not exceed the maximum penalties for such violations set forth in this section.

e. In addition to the penalties set forth in subdivision a of this section: (i) any individual who shall violate or fail to comply with the provisions of section 27-118.1 of this code shall also be subject to the payment of a penalty of

not less than fifty dollars nor more than one hundred dollars per day, for each dwelling unit added, commencing on the date such notice of violation was issued and terminating on the date of the filing of a certification that the condition constituting the violation has been corrected or the date of final adjudication of the violation by the environmental control board, whichever occurs first, and there shall be a rebuttable presumption that the violation continued to exist from the date of the issuance of the notice of violation until the date of the filing of the certification or final adjudication; and (ii) a third or subsequent violation of section 27-118.1 of this code by the same respondent and, if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violation occurred at the same premises (all violations committed within an eighteen month period), shall result in a civil penalty of not less than five thousand dollars nor more than fifteen thousand dollars.

**Local Law 3-1998; Local Law 65-1997; Local Law 80-1985, language juxtaposed per Ch. 907-1985.*

**** §[643a-12.2] 26-126.2 Environmental control board proceedings; order to certify correction.**

***a. Except as otherwise provided in subdivision e, f, i and j of this section whenever the commissioner serves a notice of violation such notice shall include an order which requires the respondent to correct the condition constituting the violation and to file a certification with the department that the condition has been corrected. Such order shall require that the condition be corrected within thirty days from the date that the order is issued and that certification of the correction of the condition shall be filed with the department in a manner and [sic] form and within such further period of time as shall be established by rule or regulation of the department.

b. If the board finds, upon good cause shown, that the

respondent cannot correct the violation within the period specified in subdivision a, it may, with the concurrence of the commissioner, postpone the period for compliance with such order upon such terms and conditions and for such period of time as shall be appropriate under the circumstances.

c. For violations which are subject to the penalties for a first violation as set forth in section 26-126.1 of this title, if the respondent complies with the order issued pursuant to subdivision a of this section within the time set forth in such subdivision, there shall be no civil penalty for such first violation. Such violation may however serve as a predicate for purposes of the multiple offense schedule set forth in section 26-126.1 of this title.

d. In any proceeding before the environmental control board, if the board finds that the commissioner has failed to prove the violation charged, it shall notify the commissioner and the order requiring the respondent to correct the condition constituting the violation shall be deemed to be revoked.

e. Subdivisions a, b, c and d of this section shall not apply to environmental control board proceedings to impose penalties for violations of section 26-122 (except violations relating to the operation of an illegal place of assembly), section 26-124 and section 26-126.3 of this title or to impose penalties for any violation which the commissioner in his [or her]** discretion determines to be hazardous.

***Copy in brackets not enacted but probably intended.*

*f. A notice of violation alleging a violation of subdivision a or b of section 27-508.3 of this code shall include an order (i) directing the respondent to correct the condition constituting the violation within thirty days from the date that the order is issued and to file a certification that the condition has been corrected with the department in a manner and form and within such further period of time as shall be established by rule of the department or (ii) directing a respondent who is a record owner of a premises on which a tobacco product advertisement is placed or maintained in violation of subdivision a of section 27-508.3 of this code but who has not posted or placed such advertisement or has not directed, caused or contracted for the posting or placing of such advertisement by a servant, agent, employee, contractor or other individual under such record owner's control, to notify, within thirty days from the date the notice of violation alleging a violation of subdivision a of section 27-508.3 of this code was issued, the person who posted or placed such advertisement or who directed, caused or contracted for the posting or placing of such advertisement, by certified mail of the notice of violation, and to send, by certified mail, a copy of such notification to the department. A record owner shall not be deemed to have directed, caused or contracted for the posting or placing of a tobacco product advertisement by a servant, agent, employee, contractor or other individual under such record owner's control unless the record owner

retains the right to cause the content of an advertisement to be changed. A general "compliance with laws" provision in a lease or contract shall not constitute such a right for purposes of this subdivision. A notice of violation issued pursuant to subdivision a or b of section 27-508.3 of this code shall also contain a statement that any hearing for a third or subsequent violation of subdivision a or b of section 27-508.3 by a wholesale or retail dealer of cigarettes shall also constitute a hearing for the revocation of a license issued to such wholesale dealer pursuant to section 11-1303 of this code or to such retail dealer pursuant to section 20-202 of this code, where the wholesale or retail dealer of cigarettes is found to be in violation.

***g. Where the respondent receives a notice of violation of subdivision a or b of section 27-508.3 of this code and the respondent complies with item (i) of subdivision f of this section, there shall be no civil penalty for such violation; provided, however, where such violation is a first violation, such violation may serve as a predicate for purposes of the multiple offense schedule as set forth in section 26-126.1 of this chapter and for purposes of revoking a license pursuant to subdivision k of this section.

***h. Where the respondent receives a notice of violation of subdivision a of section 27-508.3 of this code and the respondent is a record owner of premises who complies with item (ii) of subdivision f of this section, the notice of violation issued to such record owner shall be dismissed and shall not serve as a predicate for purposes of the multiple offense schedule as set forth in section 26-126.1 of this chapter.

***i. Where a respondent receives a notice of violation alleging a violation of subdivision a or b of section 27-508.3 of this code, and such respondent establishes that the school building, playground, amusement arcade, child day care center, or youth center that is within one thousand feet of the respondent's building, structure or premises opened, or was authorized or licensed by, or received a permit from a city or state, or certified to the department as required pursuant to subdivision o of section 27-508.2 of this code after the date such respondent placed or caused to be placed, maintained or caused to be maintained the tobacco product advertisement that is the subject of the alleged violation on such respondent's building, structure or premises, then upon the respondent so establishing within thirty days of the date of issue of the notice of violation, the environmental control board shall grant an adjournment in contemplation of dismissal. Where the respondent corrects the condition constituting the violation and certifies such correction to the department (i) within ninety days of the issuance of such adjournment in contemplation of dismissal of a notice of violation of subdivision a of section 27-508.3 or (ii) within thirty days of the granting of such adjournment in contemplation of dismissal of a notice of violation of subdivision b of section 27-508.3, in a manner and form as shall be established by rule of the department, the notice of violation shall be dismissed and shall not serve

as a predicate for purposes of the multiple offense schedule as set forth in section 26-126.1 of this chapter or for purposes of revoking a license pursuant to subdivision k of this section.

***j. Where the respondent receives a notice of violation of section 27-508.5 of this code, the respondent shall be liable for a civil penalty as set forth in section 26-126.1 of this chapter and for purposes of revoking a license pursuant to subdivision k of this section.

*k. In addition to the penalties provided in subdivision f of this section, where a wholesale or retail dealer of cigarettes is found liable for a third or subsequent violation, within an eighteen-month period, the license issued to such wholesale dealer of cigarettes pursuant to section 11-1303 of this code, or to such retail dealer of cigarettes pursuant to section 20-202 of this code, shall be revoked.

****Local Law 3-1998.*

****Local Law 80-1985, language juxtaposed per Ch. 907-1985.*

**Local Law 2-2000; Local Law 3-1998.*

*** §[643a-12.3] 26-126.3 Civil penalty for failure to certify the correction of a violation.** - a. Any person who shall fail to comply with an order of the commissioner issued pursuant to subdivision a of section 26-126.2 of this title within the time specified in such subdivision or within such further period of time as may be provided by the environmental control board pursuant to subdivision b of section 26-126.2 of this title, in addition to the penalties which may be imposed for the violation pursuant to section 26-126.1 of this title be liable for a civil penalty of not more than five thousand dollars for each violation for which there has been a failure to comply with such order. Such civil penalty may be recovered in a proceeding before the environmental control board.

b. For the purposes of this section, if the environmental control board finds that a respondent has knowingly made false statements relating to the correction of a violation in a certification filed pursuant to section 26-126.2 of this title such certification as to correction shall be null and void and the penalties set forth in this section may be imposed as if such false certification had not been filed with and accepted by the department.

**Local Law 80-1985, language juxtaposed per Ch. 907-1985.*

*****§[643a-12.4] 26-126.4 Limitations on power of commissioner to designate administrative code provisions which may be enforced by the environmental control board.**- Notwithstanding any other provision of law, the commissioner may not designate the following provisions of the administrative code for enforcement by the environmental control board:

- (1) Paragraph (6) or (7) of subdivision (c) of section 27-339.
- (2) Subdivision (c) of section 27-353.
- (3) Section 2-4 or 4-4 of building code reference standard RS13-1.
- (4) Paragraph (12) of subdivision (f) of section 27-972.
- (5) Paragraph (10) of subdivision (g) of section 27-972.

(6) Subdivision (c) of section 27-975.

(7) Subdivision (c) of section 27-989.

(8) Section 27-228.

(9) Any provision of the administrative code specified in section 15-232 of such code.

****Ch. 349, Laws of 1990; Local Law 80-1985, language juxtaposed per Ch. 907-1985. Sub.10-Local Law 3-1998, repealed by Local Law 14-2001.*

***26-126.5 Enforcement of environmental control board judgements against owners for certain building code violations. -**

a. Notwithstanding any provision of law to the contrary, an environmental control board judgement against an owner for a building code violation with respect to (i) a private dwelling, (ii) a wooden-framed single occupancy multiple dwelling, or (iii) a dwelling with a legal occupancy of three or fewer dwelling units shall constitute a tax lien on the property named in the violation with respect to which such judgement was rendered, as hereinafter provided.

b. Such liens shall be entered and enforced as follows:

(i) There shall be filed in the office of the department a record of all such unpaid judgements. Such records shall be kept by tax lot and block number and shall be accessible to the public during business hours. An entry of a judgment on the records of the department shall constitute notice to all parties.

(ii) All such unpaid judgments shall constitute a lien upon the property named in the violation with respect to which such judgment was rendered when the amount thereof shall have been definitely computed as a statement of account by the department, and the department shall cause to be filed in the office of the city collector an entry of the account stated in the book in which such charges against the property are to be entered. 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 shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless the requirements of paragraph (i) of this subdivision are satisfied.

(iii) A notice thereof, stating the amount due and the nature of the charge, shall be mailed by the city collector within five days after such entry to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent of the property or as the person designated by the owner to receive tax bills or, where no name appears, to the property, addressed to either the "owner" or the "agent".

(iv) Such notice mailed by the city collector pursuant to this section shall have stamped or printed thereon a reference to this section.

(v) If such charge is not paid within thirty days from the date of entry, it shall be the duty of the city collector to receive interest thereon at the same rate as unpaid real property taxes, to be calculated to the date of payment from the date of entry.

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

(vii) In any proceeding to enforce or discharge a lien created pursuant to this section, the validity of the lien shall not be subject to challenge based on the lawfulness of the judgment, except as provided in this section.

(viii) No such challenge may be made except by (1) the owner of the property or (2) a mortgagee or lienor whose mortgage or lien would, but for the provisions of this section, have priority over the department's lien.

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

d. The procedures provided in this section for the enforcement of environmental control board judgements against owners shall be in addition to any other methods provided under any other provision of law for the enforcement of such judgements.

**Chapter 45, Laws of 2000.*

**** §[643a-13.0] 26-127 Dangerous buildings, places and things; nuisance; order to vacate building; expenses. -**

a. Whenever any building, excavation, business, pursuit, matter or thing, or the lot on which it is situated, or the plumbing, sewerage, drainage, light or ventilation thereof is, in the opinion of the commissioner, in a condition or in effect dangerous or detrimental to life or health, the commissioner may declare that the same, to the extent that he or she may specify, is a public nuisance and he or she may order the same to be removed, sealed, abated, suspended, altered or otherwise improved or purified. The commissioner may order or cause any excavation, building, sewer, plumbing, pipe, passage, ground, matter or thing or the lot on which it is situated to be purified, cleansed, disinfected, removed, altered, repaired or improved. Any building, structure, place or premises perilous to life or property by reason of the nature or condition of its contents, its use, the overcrowding of persons therein, defects in its construction, or deficiencies in fire alarm, or fire extinguishing equipment or fire escape equipment, or by reason of any condition in violation of law or order of the commissioner, is a public nuisance within the meaning of the code and the penal law. The commissioner is empowered to abate any such public nuisance.

b. In case any order to remedy a condition imminently perilous to life or property issued by the commissioner or

the department is not complied with, or the commissioner certifies in writing that an emergency exists requiring such action, he or she may order and immediately cause any building, structure, place or premises (i) to be vacated; and, also, if the commissioner determines such action is necessary to the preservation of life and safety, (ii) to be sealed, secured and closed; provided, however, that the commissioner shall not order sealed, secured and closed any dwelling unit or other space lawfully used for residential purposes unless such dwelling unit or other space is sealed pursuant to article eight of subchapter three of chapter one of title twenty-six of the code.

c. All orders issued pursuant to this section shall be posted upon the premises. Immediately upon the posting of an order upon the premises, officers and employees of the police department, the department, and other authorized officers and employees of the city shall immediately act upon and enforce such order. The police department shall provide all reasonable assistance to the department and other authorized officers and employees necessary to carry out the provisions of this section.

d. For the purpose of this section, "sealed" and "sealed, secured and closed" shall mean the use of any means available to render the building, structure or part thereof inaccessible, including but not limited to the use of a padlock or cinder blocks.

e. (i) Any order to seal, secure and close issued pursuant to item (ii) of subdivision b of this section shall contain notice of the opportunity for a hearing with respect to such order to determine if the order was properly issued in accordance with the provisions of this section. Such hearing shall be conducted by the commissioner, or in the commissioner's discretion, by the office of administrative trials and hearings or the environmental control board. If the matter is referred to such office or board, the hearing officer shall submit his or her findings of fact and a recommended decision to the commissioner. The hearing shall be held within three business days after the receipt of the written request of an owner, lessor, lessee, or mortgagee for such hearing and the commissioner shall render a decision within three business days after such hearing is concluded.

(ii) Any order issued pursuant to this section shall be served in accordance with section 26-117 of the code and, in addition, shall be mailed to the record owner of such premises and any record mortgagee of such premises at the address for such person as set forth in the recorded instrument and to the person designated as owner or agent of the building or designated to receive real property tax or water bills for the building at the address for such person contained in one of the files compiled by the department of finance for the purpose of the assessment or collection of real property taxes and water charges or in the file compiled by the department of finance from real property transfer forms filed with the city register upon the sale or transfer of real property. A copy shall also be

filed with the county clerk of the county in which such premises are located. Such filing shall be notice of the order to any subsequent owner and such owner shall be subject to such order

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

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

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

**** Local Law 23-1990.**

*** §26-127.1 Penalties for violation of order to vacate and order to seal, secure and close; access to premises.-**

a. Any person who violates the provisions of a vacate

order issued pursuant to section 26-127 of this code shall be liable for a civil penalty of not more than twenty-five thousand dollars and an additional civil penalty of not more than one thousand dollars for each day the violation continues.

b. Except as authorized by the commissioner, any person who removes or causes to be removed the seal from any premises sealed in accordance with an order of the commissioner or his or her designee shall be guilty of a misdemeanor punishable by imprisonment for no more than one year or a fine not to exceed fifty thousand dollars, or both such fine and imprisonment. Such person shall also be subject to a civil penalty not to exceed fifty thousand dollars.

c. The commissioner shall allow access to the premises to an owner, or a lessor, lessee or mortgagee, in accordance with the terms of the parties' lease or mortgage agreement, upon the following conditions: (i) the submission of a written affirmation, satisfactory to the commissioner, that such person or persons will commence or cause to be commenced without delay all work necessary to correct the conditions stated in the vacate order or otherwise to make the premises meet all applicable laws, rules and regulations and will complete such work within a period of time and in a manner to be approved by the commissioner; (ii) the submission of an affirmation or other proof satisfactory to the commissioner describing the steps that have been taken and will be taken in the future to ensure that the premises will be used or operated in a lawful manner and specifying such lawful use; (iii) if a license, permit or certificate of occupancy is necessary for such lawful use, the submission of a written affirmation or other proof, satisfactory to the commissioner, describing the steps that have been taken and will be taken in the future to ensure that such premises will be used or operated in compliance with any law requiring such license, permit or certificate of occupancy; and (iv) if the premises are leased and the person making the affirmations described in items (i), (ii) and (iii) is not such lessee, the commissioner may also require any authorized person seeking access pursuant to this subdivision to submit an affirmation or other proof that proceedings to enable such person to take actions necessary to ensure compliance with the affirmations submitted by such authorized person pursuant to items (i), (ii) and (iii) have been commenced.

d. Any person who makes a material false statement in any document submitted pursuant to subdivision c of this section which statement he or she knows or has reason to know will be relied upon by the commissioner in determining whether he or she will allow access to the premises shall be liable for a civil penalty of not more than fifty thousand dollars.

e. Notwithstanding any other law, rule, or regulation, any person, corporation, partnership, association or any other legal entity who permits a building, structure, enclosure, place or premises, or any part thereof, to be unlawfully occupied or used in contravention of an order of the

commissioner pursuant to section 26-127, or who negligently fails to prevent or prohibit such unlawful occupancy or use, shall be liable for a civil penalty of not more than one million dollars, if any other person suffers serious physical injury, as defined in section ten of the penal law, or death in the building, structure, place or premises or any part thereof subject to such order as a result of such unlawful occupancy or use. If more than one person suffers serious physical injury or death, such penalty shall be recoverable for each person suffering injury or death. Such penalty shall be recovered in a civil action brought by the corporation counsel in the name of the city in any court of competent jurisdiction. In determining the amount of the civil penalty to be imposed the court shall consider:

- (i) The extent and severity of injury to persons and property caused by the violation;
- (ii) The history of violations by the defendant at such premises, or any other premises, of laws, rules or regulations enforced by the department;
- (iii) The degree of willfulness, recklessness, or negligence displayed by the defendant in committing the subject violation;
- (iv) The defendant's financial resources; and
- (v) The defendant's good faith efforts to cure the subject violation, including efforts to obtain entry or possession of the premises in order to do so.

In the event that any person seriously injured or the family of any person [*sic*] who has died as the result of any unlawful occupancy or use described in this subdivision is unable to collect a judgment recovered in a civil action for personal injury or wrongful death against a defendant who has violated this subdivision because of the insolvency of such defendant, the city may, in its discretion, pay to such injured person or the family of such deceased person an amount, as hereinafter provided, collected from such defendant in an action relating to the same injury or death commenced by the corporation counsel against such defendant pursuant to this subdivision. Payments pursuant to this subdivision shall be made as a matter of grace and shall be in such amounts and in accordance with such standards and procedures as shall be established by the mayor, provided, however, that any payment made pursuant to this subdivision shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which such action is based; loss of earnings or support resulting from such injury; burial expenses not exceeding two thousand five hundred dollars of a person who died as a result of such unlawful occupancy or use described in this subdivision; and the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of such unlawful occupancy or use. In no event shall the payment made to any person exceed the amount of such person's uncollected judgment for personal injury or wrongful death and in no event shall the total amount paid

to any number of persons with such uncollected judgments against a single defendant exceed the actual amount collected by the city from such defendant in an action under this subdivision.

** Local Law 23-1990.*

****§26-127.2 Violations of the zoning resolution in residential districts; public nuisance; order of closure.-**

a. Any building or part thereof that is located in a residential district, which is occupied for a commercial or manufacturing use in violation of the zoning resolution without a valid certificate of occupancy, is hereby declared to be a public nuisance.

b. If a building or part thereof in which such a nuisance occurs is not occupied primarily as a residence, the commissioner may, in addition to or as an alternative to any other remedy under any other provision of law, after notice and the opportunity for a hearing in accordance with section, order the closing of such building or part thereof to the extent necessary to abate the nuisance.

c. A notice of hearing with respect to an order of closure shall be served on the owner and mortgagee of record of such building or part thereof and on the person alleged to be occupying such building or part thereof for commercial or manufacturing use in the following manner:

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

(i) to the person registered with the department of housing preservation and development as the owner or agent of the premises, at the address filed with such department in compliance with article two of subchapter four of chapter two of title twenty-seven of the administrative code; or

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

(iii) to the person in whose name the real estate affected by the order of the commissioner is recorded in the office of the city register or the county clerk as the case may be at the address set forth on the recorded instrument.

(2) service may be made on an owner that is a corporation pursuant to section three hundred six of the business

corporation law; however, service upon a corporation shall be deemed to have been completed forty-five days following service upon the secretary of state;

(3) service may be made upon mortgagees of record by mailing such notice to the mortgagees at the address set forth on the recorded instrument;

(4) service may be made upon an occupant (i) by delivering such notice to the occupant or to a person employed by the occupant to work at or to manage or maintain the premises at which the nuisance is located; or (ii) by affixing such notice to the premises at which the nuisance is located in a conspicuous place or by placing a copy under the entrance door of such premises and mailing a copy of such notice to the occupant at such premises; (iii) and in all instances except personal delivery upon such occupant, by mailing the notice of hearing to the occupant at the premises at which the nuisance is located.

(5) proof of service pursuant to paragraphs (1), (2), (3), and (4) of this subdivision shall be filed with commissioner.

d. Such hearing shall be conducted by the office of administrative trials and hearings. The administrative law judge assigned to hear the matter shall submit his or her proposed findings of fact and recommended decision to the commissioner. If based on such recommended decision, proposed findings of fact, and the record of the hearing the commissioner determines that the building or part thereof is located in a residential district and that it has been occupied for a commercial or manufacturing use in violation of the zoning resolution without a valid certificate of occupancy, he or she may issue an order of closure. Such order shall not bar legally required ingress or egress for residential occupancy of parts of the building, which are not subject to the order of closure.

e. At such hearing it shall not be a defense that the owner, occupant, lessor, lessee, mortgagee, or other person having an interest in the property lacked knowledge of or did not acquiesce or participate in the commercial or manufacturing use of such property.

f. A closure ordered by the commissioner pursuant to this section shall not constitute an act of possession, ownership, or control by the city over the closed premises.

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

filing shall be notice of the order to any subsequent owner and such owner shall be subject to such order.

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

i. If at any time after the issuance of such order, the owner, mortgagee, or other person having an interest in the property provides assurance, in a form satisfactory to the commissioner, that the commercial or manufacturing use of the premises has been discontinued and will not reoccur, or such owner, mortgagee, or other person establishes that the premises may be lawfully occupied for such manufacturing or commercial use, the commissioner shall rescind the closure order. If such order is rescinded, the commissioner shall, upon request of such owner, mortgagee, or other person, provide a copy of such rescission, [sic] which may be filed with the county clerk or register of the county in which such premises are located.

j. It shall be a misdemeanor for any person to use or occupy or to permit any other person to use or occupy any building or part thereof that has been sealed, padlocked, or otherwise closed pursuant to an order of the commissioner. Mutilation or removal of a posted order of the commissioner shall be punishable by a fine of not more than two hundred fifty dollars or by imprisonment not exceeding fifteen days, or both, provided such order contains therein a notice of penalty.

k. Intentional disobedience or resistance to any provision of an order issued by the commissioner pursuant to this section, in addition to any other punishment prescribed by law, shall be punished by a fine of not more than one thousand dollars, or by imprisonment not exceeding six months, or both.

****Local Law 6-1993.**

*****26-127.3 Illegal outdoor signs; public nuisance.-**

a. A sign with a surface area greater than two hundred square feet that is erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of the zoning resolution, the administrative code or rules adopted pursuant thereto is hereby declared to be a public nuisance. The commissioner may, after notice and hearing, order the removal of such illegal sign or its sign structure or both, as hereinafter provided.

b. The commissioner shall serve a notice of hearing with regard to the proposed nuisance abatement on the owner and mortgagee of record of the building or premises and other persons having a recorded interest in the property in the manner provided in subdivision c of section 26-127.2 of this code for the service of an order of closure. If the sign is under the control of an outdoor advertising company, as defined in section 26-259 of the code, and an address for such company is reasonably

ascertainable, the notice shall also be served on such outdoor advertising company by mail to the last known address for such company or, if such company is registered in accordance with section 26-260 of the code, at the address provided to the department by the registrant.

c. The office of administrative trials and hearings shall conduct the hearing. The administrative law judge assigned to hear the matter shall submit his or her proposed findings of fact and recommended disposition to the commissioner. If based on such recommended disposition, proposed findings of fact and the record of the hearing the commissioner determines (i) that the sign has a surface area greater than two hundred square feet and, (ii) that the sign has been erected, maintained, attached, affixed, painted on, or in any other manner represented on the building or premises in violation of the zoning resolution, the administrative code or rules adopted pursuant thereto, he or she may order the removal of the illegal sign or its sign structure or both.

d. At such hearing it shall not be a defense that an owner or other person having an interest in the property lacked knowledge of or did not participate in the erection or maintenance of the illegal sign.

e. The commissioner's order of removal shall be posted, mailed and filed in the manner provided in subdivision g of section 26-127.2 of this code for an order of closure.

f. On or after the tenth business day after the posting of such order and upon the written directive of the Commissioner, police officers and authorized representatives of the department shall act upon and enforce such order by removing, covering, painting over or otherwise rendering ineffective the illegal sign or its sign structure or both. Such work shall at all times be performed by a licensed sign hanger where required by law. Nothing in this section shall be construed to prohibit an owner or other person having an interest in the property from removing or causing the removal of an illegal sign or its sign structure prior to the arrival of such enforcement officers. On and after the posting of such removal order, no further permits for signs shall be issued for such building or premises pursuant to section 26-253 or sections 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code and, if the sign structure is not removed, no further display shall be exhibited on such sign structure unless and until the commissioner rescinds such order. The commissioner may rescind the order if the owner or other person having an interest in the building or premises provides assurance in a form satisfactory to the commissioner that all signs erected or maintained at such building or premises will be in compliance with the zoning resolution, the administrative code or rules adopted pursuant to such provisions. If such order is rescinded, the commissioner shall, upon request of such owner, mortgagee or other person, provide a certified copy of such rescission which may be filed with the county clerk or register of the county in which such building or premises is located.

g. The costs and expenses for painting over, covering, rendering ineffective or for the removal and storage of such sign and its sign structure may be recovered from the owner of the premises or, if the illegal sign is under the control of an outdoor advertising company and notice was served on such company in accordance with subdivision b of this section, from such outdoor advertising company. Such amounts may be recovered by the city in an action or proceeding in any court of appropriate jurisdiction and, with respect to amounts owed by an outdoor advertising company, by drawing upon any bond posted by such company pursuant to section 26-260 of this code. Nothing in this subdivision shall be construed to limit the ability of an owner to seek recovery of such costs and expenses from any other party.

h. In addition, such costs and expenses shall constitute a lien on the land and building on which the sign was located which may be entered and enforced pursuant to section 26-128 of this code in the same manner as an unpaid fee.

i. The commissioner shall adopt rules to provide for the storage and disposal of any sign or sign structure removed pursuant to this section. If the identity and address of the owner of such property is reasonably ascertainable, notice of the removal shall be sent to the owner within a reasonable period of time after the removal. If such property is not claimed within thirty days after its removal it shall be deemed to be abandoned and may be sold at a public auction after having been advertised in the City Record and the proceeds paid into the general fund or if the commissioner determines that the property is not saleable, he or she may turn over such property to the department of sanitation for disposal. Property removed pursuant to this section shall be released to the owner or other person lawfully entitled to possession upon payment of the costs of removal and storage as set forth in the rules of the department and any fines or civil penalties imposed for the violation or, if an action or proceeding for the violation is pending in court or before the environmental control board, upon the posting of a bond or other form of security acceptable to the department in an amount which will secure the payment of such costs and any fines or civil penalties which may be imposed for the violation.

j. For the purposes of this section the terms "sign" and "surface area", in reference to a sign, shall be as defined under section 12-10 of the zoning resolution.

k. An order of the commissioner issued pursuant to subdivision c of this section shall be a final determination of the commissioner for purposes of review pursuant to article seventy-eight of the civil practice law and rules. Notwithstanding any inconsistent provision of paragraph (a) of subdivision six of section six hundred sixty-six of the New York city charter, such order shall not be subject to review by the board of standards and appeals.

****Local Law 14-2001.*

§[643a-14.0] 26-128 Liens on premises for inspection, reinspection, examination, service or permit fees.-

a. Any unpaid fee for an inspection, reinspection, examination or service performed by 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.

b. There shall be filed in the office of the department a record of all fees for inspections, reinspections, examinations or services performed and all permits issued by or on behalf of the department. Such records shall be kept on a building by building basis and shall be accessible to the public during business hours. An entry of a fee on the records of the department shall constitute notice to all parties.

c. All such unpaid fees 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 cause to be filed in the office of the city collector an entry of the account stated in the book in which such charges against the premises are to be entered. 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 shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless the requirements of subdivision b of this section are satisfied.

d. A notice thereof, stating the amount due and the nature of the charge, shall be mailed by the city collector, within five days after such entry, to the last known address of the person whose name appears on the records in the office of the city collector 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.

e. If such charge is not paid within thirty days from the date of entry, it shall be the duty of the city collector to receive interest thereon at the rate of fifteen percent per annum, to be calculated to the date of payment from the date of entry.

f. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of the 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.

g. Such notice mailed by the city collector pursuant to this section shall have stamped or printed thereon a reference to this section.

h. In any proceedings to enforce or discharge a lien created pursuant to this section 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.

i. No such challenge may be made except by (1) the owner of the property, or (2) a mortgagee or lienor whose mortgage or lien would, but for the provisions of this section, have priority over the department's lien.

§[644-1.0] 26-129 Record of applications.-

Each borough superintendent shall keep a record of all applications presented to him or her concerning, affecting or relating to the construction, alteration or removal of buildings. Such record shall include the date of the filing of each such application; the name and address of the applicant; the name and address of the owner of the land on which the building mentioned in such application is situated; the names and addresses of the architect and builder employed thereon; a designation of the premises by street number, or by any means sufficient to identify the same;* statement of the nature and proposed use of such building; and a brief statement of the nature of the application, together with a memorandum of the decision of the borough superintendent upon such application and the date of the rendition of such decision. The books containing such records are hereby declared to be public records, and shall be open to inspection at all reasonable times.

**Colon enacted; semicolon probably intended.*

§[644-2.0] 26-130 Borough superintendents to furnish tax department with copies of permits.-

Whenever any permit shall be granted by the commissioner or any borough superintendent for the erection or alteration of any building or for the installation or alteration of any service equipment therein, a copy of such permit shall be furnished by the commissioner or such superintendent to the department of finance within five days after the issuance of such permit.

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ARTICLE 1 GENERAL PROVISIONS

§[26-1.0] 26-131 General license requirements.-It

shall be unlawful, on and after December sixth, nineteen hundred sixty-eight, for any person to engage in or carry on in the city any business, trade or calling regulated by this subchapter, without having first obtained a license therefor from the commissioner in accordance with and subject to the provisions of this subchapter, except that any certificates of qualification or licenses issued for any such business, trade or calling issued by the department, or by any other city department or agency, prior to December sixth, nineteen hundred sixty-eight, shall continue to remain in full force and effect until the expiration or termination thereof in accordance with the terms thereof, unless sooner revoked or suspended for cause as hereinafter provided.

§[26-1.1] 26-132 Application for license.-

All applications for licenses shall be submitted on forms furnished by the department, and shall be accompanied by the required fee, as hereinafter provided. Each application for a license shall set forth the name, residence address and business address of the applicant, and such information and supporting data concerning his or her qualifications for the license as the commissioner may require.

*** §[26-1.2] 26-133 Qualifications of applicant.** -All applicants for licenses shall be at least eighteen years of age, shall be able to read and write the English language, shall be of good moral character, and shall meet the qualifications prescribed for the particular license, as hereinafter provided.

**Local Law 55-1989.*

****§[26-1.3] 26-134 Examination of applicant.**-Every applicant for a license shall be examined as to his or her fitness and qualifications therefore [*sic*] in accordance with rules and regulations adopted and promulgated by the commissioner under and pursuant to the provisions of chapter forty-five of the charter. The commissioner may require the applicant to submit to an oral, written and practical examination or any or all of said examinations; and such examinations and investigations required to determine the fitness and qualifications of said applicant shall, upon the request of the commissioner, be conducted by the department of citywide administrative services, which shall certify the results thereof, pursuant to the provisions of section eight hundred eighteen of the charter.

***Local Law 59-1996.*

§[26-1.4] 26-135 Exemptions from examination.-Notwithstanding the provisions of section 26-134 of this subchapter, the commissioner shall have the power to exempt from examination any person who, prior to December sixth, nineteen hundred sixty-eight, held a license or was otherwise qualified under the provisions of the code theretofore in effect.

§[26-1.5] 26-136 Issuance of license.-

The commissioner shall issue a license to each applicant who shall have submitted satisfactory evidence of his or her qualifications, and shall have satisfactorily passed all required examinations to determine his or her fitness and qualifications, provided that no license shall be issued unless and until the applicant shall have paid the required fee therefor and complied with such other and further requirements for the particular license as may be hereinafter provided. All licenses issued by the commissioner shall have his or her signature affixed thereto; but the commissioner may authorize any subordinate to affix such signature.

***** §[26-1.6] 26-137 Term of license; renewal.-**

All licenses, except for plumbing licenses and fire suppression piping contractor licenses, issued by the commissioner under the provisions of this subchapter shall expire one year from the date of issuance thereof, and may be renewed annually, provided that application for renewal of the license is made thirty calendar days prior to the expiration date of the license. A plumbing license and a fire suppression piping contractor license shall expire two years from the date of issuance thereof, and may be renewed every two years thereafter, provided that application for renewal of the license is made between thirty and sixty calendar days prior to its expiration date. All applications for renewal of a license shall be accompanied by the required renewal fee. If application for renewal is not made as provided above, the commissioner may, nevertheless, renew the license provided the applicant pays an additional fee of five dollars, except as otherwise provided in this subchapter, and provided further that the applicant satisfies the commissioner as to his or her qualifications.

****Local Law 51-2001.*

*** §[26-1.7] 26-138 Use of license.-**

a. No holder of a license issued under this subchapter shall authorize, consent to or permit the use of his or her license by or on behalf of any other person, and subject to the provisions of section 26-131 of this subchapter, no person who has not qualified and obtained a license under this subchapter shall hold himself or herself out to the public as licensed or as the holder of a license issued under this subchapter, either directly or indirectly, by means of signs, sign cards, metal plates, stationery, or in any other manner whatsoever.

b. Except for plumbing licenses, and fire suppression piping contractor licenses, nothing herein contained, however, shall be construed to prohibit the use of a license by the holder thereof for or on behalf of a partnership, corporation or other business association, provided that at least one member of the partnership or at least one officer of the corporation is licensed for the same business, trade or calling, and that all work performed

by such partnership or corporation is performed by or under the direct supervision of such license holder or holders.

c. For plumbing licenses, nothing herein contained, however, shall be construed to prohibit the use of a license by the holder thereof for or on behalf of a partnership, corporation or other business association, provided that fifty-one percent or more of the control or voting capital stock of such partnership, corporation, or other business association is owned by one or more holders of licenses for the same business trade or calling and that all work performed by such partnership, corporation or other business association is performed by or under the direct and continuing supervision of such license holder or holders. For plumbing licenses, however, where previous to the effective date of this code, a company, corporation, partnership or other business association or its predecessor has been doing plumbing work, it may continue to do so in any one or more of said business forms without complying with the foregoing, if application is made to the department previous to six months after the effective date of this subdivision as amended and necessary evidence shall be furnished within one year of such effective date, when such company, corporation, partnership or other business association or its predecessor has employed an average of ten or more journeymen plumbers doing plumbing work for at least five days a week for a period of ten years or more, such period need not be consecutive but must have occurred within a period of twenty years and provided, however, that such plumbing business must continue to have all plumbing work conducted under the management and direction of a licensed master plumber employed by such plumbing business and that said licensed master plumber is not otherwise interested in, associated with or employed by any other plumbing business operating in this city except as a joint venture in which the said master plumber's employer is one of the joint venturers.

d. For fire suppression piping contractor licenses, nothing herein contained, however, shall be construed to prohibit the use of a license by the holder thereof for or on behalf of a partnership, corporation or other business association, provided that fifty-one percent or more of the control or voting capital stock of such partnership, corporation, or other business association is owned by one or more holders of licenses for the same business trade or calling and that all work performed by such partnership, corporation or other business association is performed by or under the direct and continuing supervision of such license holder or holders. For fire suppression piping contractor licenses, however, where previous to the effective date of this subdivision, a company, corporation, partnership or other business association or its predecessor has been doing fire suppression piping contractor work, it may continue to do so in any one or more of said business forms without complying with the foregoing, if application is made to the department previous to six

months after the effective date of this subdivision and necessary evidence shall be furnished within one year of such effective date when such company, corporation, partnership or other business association [*sic*] or its predecessor has employed an average of ten or more journeymen doing fire suppression piping contractor for at least five days a week for a period of ten years or more, such period need not be consecutive but must have occurred within a period of twenty years and provided, however, that such fire suppression piping contractor business must continue to have all fire suppression piping contractor work conducted under the management and direction of a licensed master fire suppression piping contractor employed by such fire suppression piping contractor business and that said licensed master fire suppression piping contractor is not otherwise interested in, associated with or employed by any other fire suppression piping contractor business operating in this city except as a joint venture in which the said master fire suppression piping contractor's employer is one of the joint venturers.

**Local Law 55-1989.*

§[B26-1.8] 26-139 Revocation of licenses.-The commissioner shall have power to revoke or suspend any license upon proof of fraud, deceit, collusion or misrepresentation on the part of the holder in obtaining the license or any renewal thereof, or upon proof of violation of or failure to comply with the provisions of the building code and other applicable laws, rules or regulations relating to the business, trade or calling of the licensee, provided that the commissioner shall not revoke or suspend any license for any cause, unless and until the holder shall have been given at least five calendar days' prior notice in writing and an opportunity to be heard. However, notwithstanding the foregoing, when the public safety may be imminently jeopardized the commissioner shall have the power, pending a hearing and determination of charges, to forthwith suspend any license for a period not exceeding five working days.

§[B26-1.9] 26-140 Violations and penalties.-Any person who shall violate any of the provisions of this subchapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not to exceed five hundred dollars, or by imprisonment for a period not to exceed six months, or both. Such person shall also be subject to the payment of a penalty of not more than two hundred fifty dollars, to be recovered in a civil action brought in the name of the city in any court of record in the city.

ARTICLE 2

***MASTER PLUMBER LICENSE; MASTER FIRE SUPPRESSION PIPING CONTRACTOR LICENSE**

*** §[B26-2.0] 26-141 Definitions.**-For the purposes of this article:

a. "Board" means the license board established pursuant

to section 26-144 of this article.

b. "Certificate" means the certificate of competence as a master plumber or master fire suppression piping contractor issued by the commissioner to an individual who satisfies the requirements of this subchapter for certification as a master plumber or a master fire suppression piping contractor.

c. "Direct and continuing supervision" means responsible control exercised by a licensed master plumber or a licensed master fire suppression piping contractor, either personally or through one or more levels of competent supervision, over those persons in the direct employ of the licensed individual, partnership, corporation or other business association as authorized by the code performing the actual work of installing, maintaining, repairing, modifying, extending or altering plumbing or gas piping, or the actual work as permitted by the class of license held by the licensee for which such licensee assumes full responsibility. Such control shall be evidenced by such licensee's signature and seal upon any required statements, applications and/or permits.

d. "Direct employ" means that an individual performing the actual work of installing, maintaining, repairing, modifying, extending or altering plumbing or gas piping is an employee of the licensed master plumber, partnership, corporation or other business association as authorized by the code, having responsibility for such work, or an individual performing the actual work of installing, maintaining, repairing, modifying, extending or altering any fire suppression piping system or any part thereof as permitted by the class of license held by the licensee is an employee of the licensed master fire suppression piping contractor, partnership, corporation or other business association as authorized by this code having responsibility for such work. The employer shall not be restricted in the employer's right to use those employees in the employer's work force with proper and necessary training to perform the required work. Such employment shall be evidenced by payroll records such as social security payments, income tax withholding or the disbursement of other funds as required by law for the benefit of such employee.

**e. "Licensed master plumber" means an individual, partnership, corporation or other business association authorized under the provisions of this subchapter to install, maintain, repair, modify, extend or alter plumbing, standpipe where a sprinkler is not or is not now being connected, domestic water, connections to the domestic water, combination domestic water and reserve standpipe supply tank, up to and including the roof tank check valve, gas piping or any piping system referred to in subchapter sixteen of chapter one of title twenty-seven of the code and in reference standard RS-16 and up to thirty sprinkler heads off the domestic water in any one building in the city of New York which has satisfied the provisions of this subchapter for operation pursuant to a plate, certificate issued to an individual and seal.

f. "Licensed master fire suppression piping contractor"

means an individual, partnership, corporation or other business association authorized under the provisions of this subchapter to install, maintain, repair, modify, extend or alter a fire suppression piping system in the city of New York who has satisfied the provisions of this subchapter for operation pursuant to a plate, certificate issued to an individual and seal.

g. "Plate" means a licensed master plumber or licensed master fire suppression piping contractor plate issued by the commissioner to an individual who has satisfied the provisions of this subchapter for certification and license as a master plumber or master fire suppression piping contractor. The plate shall permit the individual to perform the work and services permitted within the provisions of this subchapter.

h. "Fire suppression piping system" means any system including any and all equipment and materials in connection therewith with the exception of any electrical components which must be installed by a licensed electrician pursuant to this code, the purpose of which is to control, to contain, to suppress or to extinguish fire and shall include:

**1. the systems, materials and equipment described or referred to in articles one through four of subchapter seventeen of chapter one of title twenty-seven of the code and in reference standards RS 17-1, RS 17-2, RS 17-2A and RS 17-2B of the code, with the exception of any electrical components which must be installed by a licensed electrician pursuant to this code, which systems, materials or equipment shall include any standpipe system to which a sprinkler system is or is now being connected; provided, however, that such systems, materials or equipment shall not include any systems, materials or equipment specified in subdivision e of this section, with the exception of up to thirty sprinkler heads off the domestic water in any one building; or

2. any dry, liquid or gaseous chemical fire containment, suppression, control or extinguishment system or any other device or means of control, suppression, containment or extinguishment of fire, with the exception of any electrical components which must be installed by a licensed electrician pursuant to this code, but not including portable fire extinguishers.

i. "Combined standpipe system" means a standpipe to which a sprinkler system is connected or is now being connected, as shown by drawings approved by the department.

j. All other words mean the same as the definitions provided in section 27-232 of the code.

**Local Law 55-1989.*

***Local Law 10-1999.*

***§[B26-2.1] 26-142 Requirement of license.-**

a. It shall be unlawful for any person:

1. (a) to install, maintain, repair, modify, extend or alter a plumbing standpipe where a sprinkler is not or is not now being connected, domestic water, connections to the domestic water, combination domestic water and standpipe supply tank, up to and including the roof tank

check valve, gas piping or any piping system referred to in subchapter sixteen of chapter one of title twenty-seven of the code and in reference standard RS-16 and up to twenty sprinkler heads off the domestic water in any one building, in the city of New York unless such person is a licensed master plumber, partnership, corporation or other business association as permitted by this code and unless such work is performed under the direct and continuing supervision of a licensed master plumber;

(b.) to install, maintain, repair, modify, extend or alter any fire suppression piping system in the city of New York unless such person is a licensed master fire suppression piping contractor, partnership, corporation or other business association as permitted by this code and unless such work is performed under the direct and continuing supervision of a licensed master fire suppression piping contractor; or

2. (a.) to use the title licensed master plumber, master plumber, or any other title in such manner as to convey the impression that such person is a licensed master plumber unless such person is licensed in accordance with provisions of this subchapter;

(b.) to use the title licensed master fire suppression piping contractor, master fire suppression piping contractor, or any other title in such manner as to convey the impression that such person is a licensed master fire suppression piping contractor unless such person is licensed in accordance with the provisions of this subchapter.

b. A certificate of competence as a master plumber or master fire suppression piping contractor shall be issued only to an individual.

c. There shall be three classes of licenses for master fire suppression piping contractors which are as follows:

1. Class A. The holder of a class A master fire suppression piping contractor license is authorized to perform any work in connection with any and all fire suppression piping systems as defined in paragraphs one and two of subdivision h of section 26-141.

2. Class B. The holder of a class B master fire suppression piping contractor license is authorized to perform any work in connection with any and all fire suppression piping systems as defined in paragraph one of subdivision h of section 26-141.

3. Class C. The holder of a class C master fire suppression piping contractor license is authorized to perform any work in connection with any and all fire suppression piping systems as defined in paragraph two of subdivision h of section 26-141.

d. 1. No individual, corporation, partnership or other business association shall install, maintain, repair, modify, extend or alter a plumbing, standpipe where a sprinkler is not or is not now being connected, domestic water, connections to the domestic water, combination domestic water and reserve standpipe supply tank, up to and including the roof tank check valve, gas piping or any piping system referred to in subchapter sixteen of

chapter one of title twenty-seven of the code and in reference standard RS-16 and up to twenty sprinkler heads off the domestic water in any one building in the city of New York or employ a name incorporating the term plumber or plumbing or any modification or derivative of such terms unless such individual has been issued a plate or, a corporation, partnership or other business association is operating pursuant to a plate authorizing the conduct of a plumbing contracting business in the city of New York.

2. No individual, corporation, partnership or other business association shall install, maintain, repair, extend or alter a fire suppression piping system, or any part thereof, in the city of New York or employ a name incorporating the term fire suppression piping or any modification or derivative of such term unless such individual has been issued a plate or, a corporation, partnership or other business association is operating pursuant to a plate authorizing the conduct of a fire suppression piping contracting business in the city of New York except as otherwise provided by this subdivision.

e. 1. No individual, corporation, partnership or other business association shall conduct a plumbing contracting business in the city of New York, unless:

(a) no less than fifty-one percent of the control or voting capital stock of such entity is owned by one or more individuals who are licensed master plumbers except as otherwise provided; and

(b) all plumbing or gas piping work performed by such entity is performed by or under the direct and continuing supervision of a licensed master plumber; and

(c) The person in charge of such work is a licensed master plumber; and

(d) the persons actually performing such work are in the direct employ of such licensed master plumber, partnership, corporation or other business association as authorized by the code.

2. No individual, corporation, partnership or other business association shall conduct any fire suppression piping contracting business in the city of New York unless:

(a) no less than fifty-one percent of the control or voting capital stock of such entity is owned by one or more individuals who are licensed master fire suppression piping contractors except as otherwise provided; and

(b) all work in connection with a fire suppression piping system performed by such entity is performed by or under the direct and continuing supervision of a licensed master fire suppression [sic] piping contractor; and

(c) the person in charge of such work is a licensed master fire suppression piping contractor; and

(d) the persons actually performing such work are in the direct employ of such licensed master fire suppression piping contractor, partnership, corporation or other business association as authorized by the code.

** Local Law 55-1989.*

**** §[B26-2.2] 26-143 Exemption.**-The provisions of

section 26-142 of this subchapter shall not apply to minor plumbing alterations or ordinary plumbing repairs, as defined and delimited by sections 27-124, 27-125 and 27-126 of the code, or to the installation or alteration of gas service piping and gas meter piping, including meters, valves, regulators or related equipment, when such work is to be performed, serviced and maintained by utility corporations subject to the jurisdiction of the public service commission nor shall the provisions of section 26-142 apply to minor alterations, ordinary repairs and maintenance of a fire suppression piping system.

****Local Law 55-1989.**

*** §[B26-2.3] 26-144 License board.-**

a. The commissioner shall appoint annually each member of a license board, to investigate and report, at the request of the commissioner, on all proposed suspensions or revocations of license, make recommendations regarding the surveillance of the practices of licensed master plumbers and licensed master fire suppression piping contractors, and the policing of the activities of unlicensed practitioners, and engage in such other functions as herein provided. The commissioner may, for cause shown, remove any member of the license board and shall fill any vacancy therein. Such board shall consist of :

1. Two officers or employees of the department representing the commissioner.
 2. Five individuals who are licensed master plumbers at least four of whom shall be selected from nominees of the New York City contracting plumbing association whose members perform the largest dollar value of work within the city and one of whom shall be the holder of a class A or class B master fire suppression piping contractor license.
 3. Two individuals who are licensed master fire suppression piping contractors both of whom shall hold a class A license and shall be selected from nominees of the New York city sprinkler/fire suppression piping contractors association whose members perform the largest dollar value of work within the city.
 4. A professional engineer having at least five years' experience in the design of plumbing systems.
 5. A registered architect.
 6. A professional engineer who is a full member of the society of fire protection engineers.
 7. A resident of the city.
 8. Two officers or employees of the fire department representing the fire commissioner.
- b. One of the members of the board who is an officer or employee of the department representing the commissioner shall serve as chairperson and all members shall serve without compensation. Eight members including the chairperson, who shall be entitled to vote, shall constitute a quorum of the board for the transaction of business. All actions shall be conducted by majority vote except as otherwise provided.
- c. The commissioner may request the license board to investigate and hear any or all written complaints against anyone allegedly acting in violation of the provisions of

this subchapter and to report to the commissioner its findings and recommendations. It shall keep minutes of its proceedings and hearings and records of its investigations. Upon the holding of any hearing, the chairperson of the board presiding at such hearing may administer oaths, and the board may issue and cause to be served subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing held by it upon written complaint. Such subpoenas shall by** signed by the chairperson and the fees and mileage paid to witnesses upon the service of such subpoenas shall be those prescribed by law. The board shall meet at least once a month except during the months of July and August, and at such other times upon call of the chairperson.

d. The license board may request the commissioner to appoint duly authorized representatives to conduct investigations and other activities incidental to the functions of the license board. Such appointees shall be non-voting members of the committee to which they are appointed, and may include personnel who are not department employees who shall serve without compensation. In addition the commissioner may designate such employees of the department as he or she deems necessary to the service and support of the license board.

e. The license board shall make recommendations to the commissioner regarding plumbing and fire suppression piping practices and code applications.

f. The license board shall make recommendations to the commissioner regarding plumbing and fire suppression piping regulations and legislation.

***Local Law 55-1989.**

****As enacted but "be" probably intended.**

§[B26-2.4] 26-145 Certificate application.-All applications for a certificate shall be subject to the provisions of section 26-132 of this subchapter; and all applicants for a certificate shall comply with and be subject to the provisions of sections 26-133, 26-134 and 26-135 of this subchapter.

***§[B26-2.5] 26-146 Certificate qualifications.-**In addition to meeting the general qualifications prescribed in section 26-133 of this subchapter:

- a. all applicants for a master plumber certificate shall submit satisfactory proof establishing that the applicant :
1. has had at least seven years' prior experience in the design and installation of plumbing systems in the United States; or
 2. has received a bachelors' degree in engineering or appropriate engineering technology from a college or university registered by the state department of education and has had at least three years prior experience in the design and installation of plumbing systems in the United States.
- b. all applicants for a master fire suppression piping contractor certificate shall submit satisfactory proof establishing that the applicant:

1. has had at least seven years' prior experience in the design and installation of fire suppression piping systems or four years in the design and installation of plumbing systems and three years in the design and installation of fire suppression piping systems in the United States, for the class of license for which application is made; or

2. has received a bachelors' degree in engineering or appropriate engineering technology from a college or university registered by the state department of education and has had at least three years' prior experience in the design and installation of fire suppression piping systems in the United States, for the class of license for which application is made.

c. Applicants who were engaged in plumbing or fire suppression piping work as above provided, prior to entering the armed services of the United States shall be permitted to credit their time in the service as experience in the plumbing or fire suppression piping business, as above provided; but such service credit shall not exceed one-third of the time required for experience in this section.

**Local Law 55-1989.*

*** §[B26-2.6] 26-147 License fees.-** a. The fee for obtaining a certificate shall be two hundred dollars; and the biennial renewal fee to maintain the certificate shall be one hundred dollars.

b. The fee for obtaining a plate shall be seventy-five dollars, and fifty dollars for a seal. If the plate or seal is lost, and an affidavit is submitted establishing such fact, a new plate or seal shall be issued by the commissioner upon application and payment of a fee of one hundred dollars for a plate and seventy-five dollars for a seal. The biennial renewal fee to retain such plate and seal shall be one hundred and fifty dollars. Such plate or seal shall remain the property of the city of New York. If application for renewal is not made between thirty and sixty calendar days prior to the expiration date of the license, the applicant shall be required to pay an additional fee of fifty dollars.

**Local Law 55-1989; Local Law 51-2001.*

***§[B26-2.7] 26-148 Certificate of competence; plate; seal.-**

a. A certificate of competence shall be issued by the commissioner to an applicant who satisfactorily complies with the experience and examination requirements of this subchapter for a certificate, upon payment of a specified fee. Such certificate shall contain the full name of the individual and a certificate number, and shall be signed by the commissioner.

b. The issuance of a certificate shall constitute evidence that the person named therein is qualified to obtain a plate and seal while the certificate is valid. The certificate shall entitle the applicant to obtain a plate and seal from the commissioner upon approval of an application showing compliance with the requirements of this subchapter and upon the payment of the specified fees. The holder of a certificate shall not be entitled to perform work or hold him or herself out to perform work as a licensed master

plumber or licensed master fire suppression piping contractor until such plate and seal have been obtained.

c. The holder of a certificate shall obtain a plate and seal upon establishing either:

1. a plumbing contracting business conforming to the requirements of this subchapter and any rules and regulations promulgated by the commissioner. No holder of a certificate shall enter into any contractual agreement to install or alter any plumbing, gas piping, or any piping system referred to in reference standard RS-16, other than an employment agreement with a licensed master plumber, partnership, corporation or other business association as authorized by this code, other than on behalf of an employer holding such plate and seal, unless and until he or she shall have obtained a plate and seal.

2. a fire suppression piping contracting business conforming to the requirements of this subchapter and any rules and regulations promulgated by the commissioner. No holder of a certificate shall enter into any contractual agreement to install or alter any fire suppression piping system other than employment agreement with a licensed master fire suppression piping contractor, partnership, corporation or other business association as authorized by this code, other than on behalf of an employer holding such plate and seal, unless and until he or she shall have obtained a plate and seal.

d. The plate and seal shall contain the full name of the holder of the certificate with the words "licensed plumber" or "licensed master fire suppression piping contractor-Class A, B or C", and the license number. The plate shall set forth the business organization which is operating pursuant to the plate. The plate shall be prominently and conspicuously displayed at the place of business registered with the department.

e. Prior to the issuance of any plate or seal, or renewal thereof, the applicant shall file with the department a liability bond and a property damage bond, or in lieu thereof, policies of insurance. The minimum amount of the bonds or insurance policies shall be subject to the approval of the commissioner, conditioned upon the observance of all applicable laws, rules and regulations governing the licensed activities and upon the payment of any judgment awarded for bodily injury, death or damage to or destruction of property occurring in the performance of any regulated work by or under the supervision of such licensee. Each bond or policy of insurance shall contain a provision for continuing liability notwithstanding any recovery thereunder. In addition, prior to the issuance of any plate or seal, or any renewal thereof, the applicant shall file with the department satisfactory evidence of compliance with the workers' compensation law and the disability benefits law.

f. All business vehicles, advertising and stationery used in connection with work or services requiring:

1. a master plumber license shall display prominently the full name of the licensee, the words "N.Y.C.licensed plumber", and the licensee's plate number and business

address. If the business is conducted under a trade name, or by a partnership or corporation, the trade name, partnership or corporate name shall be placed immediately above the full name or names of the certified master plumber or master plumbers to whom the plate was issued.

2. a master fire suppression piping contractor license shall display prominently the full name of the licensee, the words "N.Y.C. licensed master fire suppression piping contractor-class A, B, or C," and the licensee's plate number and business address. If the business is conducted under a trade name, or by a partnership or corporation, the trade name, partnership or corporate name shall be placed immediately above the full name or names of the certified master fire suppression piping contractor or contractors to whom the plate was issued.

g. If a licensed master plumber or licensed master fire suppression piping contractor withdraws from a partnership, corporation, or other business association operating pursuant to such plate, the right of such business to perform the work and service requiring such license shall lapse if the provisions of this subchapter are no longer satisfied.

h. Not more than one plate and seal shall be issued to the holder of a certificate, and upon such individual's death or retirement from performing work and services, or upon the revocation or suspension of his or her certificate, his or her plate and seal shall immediately be surrendered to the commissioner. Nothing contained herein shall be construed to prevent the legal representative of a deceased plate and seal holder, with the consent of the commissioner, from retaining such plate and seal for the purpose of completing all unfinished work of such deceased licensee for which plans have been approved and a permit issued, provided such work is performed by or under the direct and continuing supervision of a licensed master plumber or licensed master fire suppression piping contractor as appropriate and is completed within one year from the date of the death of the original licensee.

i. The licensed master plumber or licensed master fire suppression piping contractor, partnership, corporation or other business association as authorized by the code, shall maintain a place of business within the city of New York at the time of issuance of the plate and during the life thereof which is in conformance with the zoning regulations and the rules and regulations of the commissioner and which complies in other respects with the building code. The licensee shall promptly notify the commissioner of any change of address of his or her place of business within thirty calendar days of such change.

j. 1. An individual who is a licensed master plumber whose interest or ownership in a corporation, partnership or other business association constitutes any portion of the fifty-one per cent interest or control required by this subchapter shall be prohibited from possessing an interest or ownership in more than one other plumbing corporation, partnership or other business association at his or her established place of business, where such

interest or ownership would constitute any portion of the fifty-one per cent interest or control required by this subchapter. Both corporations, partnerships or other business associations in which the individual who is a licensed master plumber has an interest shall be located at the same place of business. For the purposes of this subdivision, where two or more individuals who are licensed master plumbers possess an interest or ownership in any corporation, partnership or other business association which together represents more than fifty-one per cent of the interest or control of such entity, all of such licensees shall be deemed to possess a portion of the fifty-one percent interest or control required by this subchapter.

2. An individual who is a licensed master fire suppression piping contractor whose interest or ownership in a corporation, partnership or other business association constitutes any portion of the fifty-one per cent interest or control required by this subchapter shall be prohibited from possessing an interest or ownership in more than one other fire suppression piping corporation, partnership or other business association, at his or her established place of business, where such interest or ownership would constitute any portion of the fifty-one per cent interest or control required by this subchapter. Both corporations, partnerships or other business associations in which the individual who is a licensed master fire suppression piping contractor has an interest shall be located at the same place of business. For the purposes of this subdivision, where two or more individuals who are licensed master fire suppression piping contractors possess an interest or ownership in any corporation, partnership or other business association which together represents more than fifty-one per cent of the interest or control of such entity, all of such licensees shall be deemed to possess a portion of the fifty-one per cent interest or control required by this subchapter.

k. Nothing contained in this section shall be construed to prevent an individual, corporation, partnership or other business association authorized under the provisions of this subchapter from entering into a joint venture of limited duration for a particular project with another business entity similarly authorized.

**Local Law 55-1989.*

***§[B26-2.8] 26-149 Business operation, licensed master plumbers/licensed master fire suppression piping contractors.-**

a. The master plumber or fire suppression piping contractor, so licensed, shall conduct his or her business to provide direct and continuing supervision in accordance with the provisions of this subchapter.

b. All documents which are required to be filed with any department or agency of the city of New York shall bear the stamp of the seal as well as the signature of such licensee. The licensed master plumber or licensed master fire suppression piping contractor performing the work and services of the licensee shall personally sign all

applications and other documents required to be filed pursuant to the code.

c. All certificates of competence and all plates shall be recorded by the commissioner as provided in section 26-153 of this subchapter.

** Local Law 55-1989.*

***§[B26-2.9] 26-150 Expiration and renewal of license.-**

a. All certificates of competence, plates and seals shall expire on the two-year anniversary date of the issuance of the certificate, plate and seal. Application for the biennial renewal of certificates, plates and seals shall be made between thirty and sixty days prior to the expiration/anniversary date. The failure of an individual to renew such certificate, plate and seal prior to the expiration/anniversary date shall have the effect of cancellation of the certificate, plate and seal. If a certificate, plate and seal is canceled, the individual shall apply for a new certificate, plate and seal.

b. Failure to apply for renewal of a certificate prior to its expiration shall not deprive the holder of the right of renewal during the ensuing year, except that the fee for such renewal after thirty days prior to the expiration date shall be one hundred dollars instead of fifty dollars.

c. If a holder of a certificate fails to renew his or her certificate for a period up to five years, reinstatement during that period shall occur upon the payment of a fee of fifty dollars for each year or part thereof after the expiration date.

d. If a holder of a certificate fails to renew his or her certificate for a period in excess of five years, the commissioner may require such person to submit to reexamination or to provide evidence of retained proficiency. In addition, the holder shall pay a fee of fifty dollars for each year or part thereof after the expiration date.

e. If a holder of a certificate has held a certificate of competency for five years without a plate and seal, then said person shall submit an affidavit satisfactory to the commissioner stating that over the five year period the individual has been engaged in the design and installation of :

1. Plumbing systems in the United States; or
2. Fire suppression piping systems in the United States.

**Local Law 55-1989; Local Law 51-2001.*

****§26-150.1 Renewals of Master Plumber and Fire Suppression Piping Contractor Licenses.-** A certificate of competence, plate and seal for a licensed master plumber and for a licensed fire suppression contractor shall be renewed provided that the certificate holder shall have satisfactorily completed a seven hour continuing education course approved by the department within two years prior to the renewal date. The content of the course and the qualifications of providers of the course shall be approved by the department in accordance with the rules of the department.

***Local Law 51-2001.*

*** §[B26-2.10] 26-151 Suspension; revocation of license.-**

a. The commissioner shall have the power to suspend or revoke a certificate of competence and/or a licensee's plate and seal and/or to impose a fine not to exceed five thousand dollars for each finding and/or to order any licensed master plumber or licensed master fire suppression piping contractor to repair damage resulting from any act or omission enumerated in paragraph two of this subdivision upon the recommendation of the board after a hearing and finding of any one or more of the following:

- (1) fraud or deceit in obtaining a certificate, plate or seal; or
- (2) gross negligence, incompetence or misconduct relating to the business, trade or calling of the person who is licensed or certified; or
- (3) fraudulent dealings; or
- (4) failure to comply with the code or any order, regulation or requirement lawfully made by the commissioner; or
- (5) failure to comply with any order, regulation or requirement lawfully made by the commissioner of environmental protection or commissioner of transportation pertaining to water services, house connections or street openings which relate to requirements of this subchapter or made by the fire commissioner relating to fire suppression piping matters; or
- (6) a practice of failing timely to perform or complete contracts relating to home improvements as defined by section 20-386 of the code or a practice of abandoning contracts on residential buildings containing four dwelling units or less.
- (7) poor moral character that adversely reflects on his or her fitness to conduct a plumbing or fire suppression piping contracting business.

b. The chairperson may request three individuals, at least two of whom shall be members of the board, to act as a hearing panel with the approval of the board. The panel shall conduct such hearing and issue a report and recommendation to the board in lieu of the hearing under subdivision a of this section; provided, however, that after such panel has issued a report and recommendation, the board may conduct such further proceedings with respect to the referenced matter as it deems advisable.

c. Any person claiming to have been injured by the fraud, deceit, negligence, incompetence or other misconduct of any person who is licensed or certified may prefer charges against such licensee before the board.

d. All charges and/or specifications shall be submitted by the commissioner in writing to the board or panel. Such charges, and/or specifications, unless dismissed without hearing by the commissioner as unfounded or trivial, shall be heard and determined by the board, with a recommendation to the commissioner.

e. The chairperson shall determine the time and place of such hearing. A copy of the charges and/or specifications, together with a notice of the time and place of hearing,

shall be served upon the accused personally or by certified or registered mail return receipt requested and by ordinary mail at least ten days before the day fixed for the hearing.

f. At such hearing, the accused shall have the right to appear personally, to be represented by counsel, to cross-examine witnesses, and to produce evidence and witnesses in his or her defense.

g. If a majority of the members of the board or hearing panel, as applicable, vote in favor of finding the accused guilty, the board or hearing panel may recommend the revocation or suspension of the certificate, plate and seal of the accused or such other action as it shall deem appropriate.

h. The fees required for the reinstatement of a certificate, plate and seal after suspension or revocation shall be the same as those required to obtain an original certificate, plate and seal. If reinstatement of the certificate, plate and seal, is not requested within thirty days of the lifting of the suspension or revocation, then appropriate late fees shall be imposed.

i. Nothing in this section shall deprive the commissioner of the power to refer an individual upon whom sanctions have been or may be imposed in accordance with this section to any governmental entity, including but not limited to any court of competent jurisdiction, for appropriate action.

**Local Law 55-1989.*

*** §[B26-2.11] 26-152 Practice without license and other violations; penalties; actions for penalties.-**

a. Any person not authorized to perform the work and services of a licensed master plumber or licensed master fire suppression piping contractor in accordance with the provisions of this subchapter or any person filing or attempting to file a licensed master plumber or licensed master fire suppression piping contractor's statement or other document on behalf of another, or representing himself or herself as another, or giving false or forged evidence of any kind to the commissioner or any other city official, or otherwise violating any of the provisions of this subchapter, shall be subject to a penalty of not less than five hundred dollars nor more than five thousand dollars for the first offense, and not less than one thousand dollars nor more than five thousand dollars for each and every subsequent offense, upon findings after administrative hearings by the board.

**Local Law 55-1989.*

***§[B26-2.12] 26-153 Publication of a roster of licensees.-**

a. The commissioner shall publish a complete roster of master plumber licensees and of master fire suppression piping contracting licensees in the City Record. Each roster shall be published biennially, with a supplement published in each alternate year.

b. Each roster shall contain an alphabetical listing of all holders of a certificate of competence. It shall also include the holders' certificate number as well as the

business name and address of his or her employer. An additional list with the same information shall be printed in numerical order by certificate number.

c. Each roster shall also contain an alphabetical listing of corporations, partnerships, business associations and individuals authorized to engage in the plumbing contracting or fire suppression piping business within the city. Next to each business name shall be the name or names of the holders of licensed master plumber or licensed master fire suppression piping contractor plates, plate and seal numbers and business addresses.

d. Each supplement shall contain all the information described in subdivisions b and c of this section.

**Local Law 55-1989.*

*** §26-153.1 Waiver of examinations.-**

a. Any individual who, on or after the effective date of this section shall meet the following qualifications and who, within six months after the effective date of this section shall make application to the department of buildings for a master fire suppression piping contractor license, and within one year shall furnish all necessary evidence, shall be issued a certificate for the particular class for which he or she is qualified without taking the examination for such certificate required by this article, however all other provisions of this article, including but not limited to those governing the fire suppression piping contractor certificate shall apply to those individuals covered by this section.

1. class A-Any individual who, during the seven consecutive years immediately preceding his or her application for a master fire suppression piping contractor certificate-class A, has been engaged in the business of designing and installing fire suppression piping systems, as defined in paragraphs one and two of subdivision h of section 26-141, primarily in the city of New York.

2. class B-Any individual who, during the seven consecutive years immediately preceding his or her application for a master fire suppression piping contractor certificate-class B, has been engaged in the business of designing and installing fire suppression piping systems, as defined in paragraph one of subdivision h of section 26-141, primarily in the city of New York.

3. class C-Any individual who, during the seven consecutive years immediately preceding his or her application for a master fire suppression piping contractor certificate-class C, has been engaged in the business of designing and installing fire suppression piping systems, as defined in paragraph two of subdivision h of section 26-141, but not including any dry chemical system, primarily in the city of New York; or any individual who qualifies under paragraph two of this subdivision may qualify under this paragraph upon the successful completion of an approved course in the design of carbon dioxide and dry, liquid or gaseous chemical extinguishing systems.

b. The department of buildings shall determine whether

an individual has been engaged in the business of designing and installing fire suppression piping systems. The following factors may be considered:

1. department of buildings records (i.e. permits, filings, plans, etc.).
2. self employment or employment by a piping contractor engaged in such business.
3. knowledge of applicable law, rules, regulations, directives and memorandums, and recognized national standards.

**Local Law 55-1989.*

ARTICLE 3 WELDER LICENSE

§[B26-3.0] **26-154 Requirement of license.**-It shall be unlawful to perform manual welding work on any structural member of any building in the city on and after December sixth, nineteen hundred sixty-eight, unless such work is performed by a person licensed as a welder under the provisions of this article, or a person qualified or licensed as a welder prior to December sixth, nineteen hundred sixty-eight, as provided in section 26-131 of this subchapter.

§[B26-3.1] **26-155 License applications.**-All applications for a welder license shall be subject to the provisions of section 26-132 of this subchapter; and all applicants for a welder license shall comply with and be subject to the provisions of sections 26-133, 26-134 and 26-135 of this subchapter.

§[B26-3.2] **26-156 License qualifications.**-In addition to the general qualifications prescribed in section 26-133 of this subchapter, all applicants for a welder license shall submit satisfactory proof of the applicant's fitness to make structural welds, including his or her ability to pass operator qualification tests.

§[B26-3.3] **26-157 License fees.**-The fee for a welder license shall be ten dollars; and the annual renewal fee shall be five dollars.

§[B26-3.4] **26-158 License conditions.**-All welder licenses shall be conditioned upon and subject to the provisions of sections 26-136 through 26-139 of this subchapter.

ARTICLE 4 HIGH-PRESSURE BOILER OPERATING ENGINEER AND PORTABLE HIGH-PRESSURE BOILER OPERATING ENGINEER LICENSES

§[B26-4.0] **26-159 Requirement of license.**-

a It shall be unlawful, on and after December sixth, nineteen hundred sixty eight to operate any high-pressure steam boiler for any purpose whatsoever in the city or in connection with any vessel on the waters in and around the city not subject to the jurisdiction of the United

States government, unless such boiler is operated by or under the supervision and in the presence of a person having the requisite high-pressure boiler operating engineer license under the provisions of this article, or a person licensed as a high-pressure boiler operating engineer prior to December sixth, nineteen hundred sixty-eight, as provided in section 26-131 of this subchapter.

b. Notwithstanding subdivision a of this section, it shall be unlawful, on and after December third, nineteen hundred seventy to operate a portable high-pressure steam boiler for any purpose whatsoever in the city, unless such boiler is operated by or under the supervision and in the presence of a person licensed as a portable high-pressure boiler operating engineer.

§[B26-4.1] **26-160 Definition.**-For the purposes of this article, a high-pressure boiler shall be defined as a boiler that carries a pressure of more than fifteen pounds of steam per square inch and is rated in excess of ten hp. or if such boiler produces hot water at a pressure of one hundred sixty psi or at a temperature over two hundred fifty degrees F.

§[B26-4.2] **26-161 License applications.**-All applications for high-pressure boiler operating engineer and portable high-pressure boiler engineer licenses shall be subject to the provisions of section 26-132 of this subchapter; and all applicants for high-pressure boiler operating engineer and portable high-pressure boiler operating engineer licenses shall comply with and be subject to the provisions of sections 26-133, 26-134 and 26-135 of this subchapter.

§[B26-4.3] **26-162 License qualifications.**-

a. In addition to the general qualifications prescribed in section 26-133 of this subchapter an applicant for a high-pressure boiler operating engineer license shall submit satisfactory proof establishing that he or she:

* (1) Has been employed as a fireman, oiler, general assistant, journeyman, boiler-maker or a machinist to a licensed high-pressure boiler operating engineer in a building or buildings in the city of New York for a period of five years of the seven years immediately preceding the date of his or her application, provided however, that, in lieu of the experience requirement contained in this paragraph, an applicant for a high-pressure boiler operating engineer license who is employed in a fossil fuel production plant located in the Rockaway Peninsula area of Queens county may submit satisfactory proof establishing that he or she has obtained at least five years experience within the seven years immediately preceding the date of his or her application which shall include at least two years of experience obtained during employment under the supervision of a licensed high pressure boiler operating engineer in a steam generating plant located outside of the city of New York but within the state of New York that is owned and operated by a licensed public

utility, and shall also include a separate period of at least three years of experience obtained during employment as a fireman, oiler, general assistant, journeyman, boiler-maker or any comparable position [sic] as approved by the commissioner, in such steam generating plant; or

(2) Has received the degree of mechanical engineer from a school or college recognized by the university of the state of New York and has had one year's experience in the operation and maintenance of high-pressure boilers under the supervision of a licensed high-pressure boiler operating engineer in the city of New York within the seven years immediately preceding the date of his or her application; or

(3) Has been a holder for a period of at least four years of a certificate as engineer issued by a board of examining engineers duly established and qualified pursuant to the laws of the United States or any state or territory thereof, or a certificate as a marine engineer issued by the United States Coast Guard and has had one year's experience in the city of New York in the operation and maintenance of stationary high-pressure boiler plants under the supervision of a licensed high-pressure boiler operating engineer within the seven years immediately preceding the date of his or her application; provided that the applicant shall have filed with his or her application his or her own signed statement that he or she is the person named in said certificate together with the supporting signed statements by three licensed high-pressure boiler operating engineers employed in the city of New York at the time of making of such signed statements; or

(4) Has had direct supervision, care, operation and maintenance of a steam generating plant of a governmental building, having boilers of 150 or more hp., for a period of five years immediately preceding the date of his or her application and has had in addition one year's experience on high-pressure boilers under the direct supervision of a licensed high-pressure boiler operating engineer in the city of New York, within the seven years immediately preceding the date of his or her application; or

(5) Has successfully completed as a registered apprentice an approved training program recognized by New York state apprenticeship council of at least two years and has had at least three years, experience in the city of New York in the operation and maintenance of high-pressure boilers under the supervision of a licensed high-pressure boiler operating engineer within the seven years immediately preceding the date of his or her application.

b. In addition to the general qualifications prescribed in section 26-133 of this subchapter, an applicant for a portable high-pressure boiler operating engineer's license shall submit satisfactory proof establishing that he or she:

(1) Has been the holder of a basic license as a hoisting machine operator as provided in article five of this subchapter for a period of three years immediately preceding the date of his or her application; and

(2) Has served as a fireman, oiler or assistant engineer

on portable high-pressure boilers under the supervision of a licensed portable high-pressure boiler operating engineer in the city for a period of three years of the seven years immediately preceding the date of his or her application. However, two of the three years of the aforesaid required experience may be obtained outside the city of New York as a fireman, oiler, assistant engineer or engineer on portable high-pressure boilers.

**Local Law 108-1993.*

§[B26-4.4] 26-163 License fees.-The fee for a high-pressure boiler operating engineer license or a portable high-pressure boiler operating engineer license shall be twenty-five dollars; and the annual renewal fee shall be fifteen dollars. The renewal fee for a portable high-pressure boiler operating engineer license shall include the renewal fee for a hoisting machine operator license, as provided in subdivision d of section 26-170 of this subchapter without any additional fee. If application for renewal is not made within thirty calendar days prior to the expiration date of the license, the applicant shall be required to pay an additional fee of ten dollars.

§[B26-4.5] 26-164 License conditions.-All high-pressure boiler operating engineer licenses and all portable high-pressure boiler operating engineer licenses shall be conditioned upon and subject to the provisions of sections 26-136 through 26-139 of this subchapter.

§[B26-4.6] 26-165 Licensing of existing operating engineers.-Any person who has been performing the duties of an operating engineer on a high temperature hot water plant whose experience as such has been for a period of three years immediately preceding the enactment of this code shall be entitled to a high- pressure boiler operating engineer license without complying with the herein above provisions upon satisfying the commissioner that such applicant possesses the aforesaid experience.

ARTICLE 5 HOISTING MACHINE OPERATOR LICENSE

§[B26-5.0] 26-166 Requirement of license.-It shall be unlawful for any persons to take charge of or operate any power operated hoisting machine used for hoisting purposes or cableways under the jurisdiction of the department, except power operated scaffolds and window washing machines, unless such person is licensed under the provisions of this article, or a holder of a certificate of qualification as a hoisting machine operator prior to December twenty-ninth, nineteen hundred sixty-nine, as provided in section 26-131 of this subchapter. The commissioner may, by rule and regulation, exempt operators of mobile cranes of limited size and capacity from the requirements of this section.

§[B26-5.1] 26-167 License applications.-

All applications for a hoisting machine operator license shall be subject to the provisions of section 26-132 of this subchapter; and all applicants for a hoisting machine operator license shall comply with and be subject to the provisions of sections 26-133, 26-134 and 26-135 of this subchapter.

§[B26-5.2] 26-168 Classification of licenses.-Such licenses shall be classified as follows:

- (a) Basic license to operate cranes, derricks and cableways, excluding power operated cranes with booms, including jibs and other extensions, which exceed two hundred feet in length and truck mounted tower cranes which exceed two hundred feet in height.
- (b) Endorsement on basic license to include the operation of hoisting machinery without limitation or restriction.
- (c) Special hoisting machine operator license to operate a specified class of hoisting machine of limited size and capacity. The equipment under this subdivision shall also include the operation of truck cranes with telescopic, hydraulic or folding booms, including jibs and any other extensions to the boom, not exceeding one hundred thirty-five feet in length with a manufacturer's rated capacity of three tons or less used exclusively for the erection, maintenance or removal of signs. Special hoisting machine operators shall be exempt from the provisions of subdivisions (a) and (b) of this section.

§[B26-5.3] 26-169 License qualifications.-

- (a) The general qualifications prescribed in section 26-133 of this subchapter shall be applicable for a hoisting machine operator license and a special hoisting machine operator license. In addition, all applicants for a hoisting machine operator license shall have had at least two years' prior appropriate experience and all applicants for a special hoisting machine operator license shall have the qualifications as prescribed in subdivision (c) of this section.
- (b) (1) The commissioner shall issue a basic license to a hoisting machine operator who is the holder of a valid certificate of qualification on December twenty-ninth, nineteen hundred sixty-nine, provided application for such license is made prior to the expiration of said certificate of qualification.
- (2) The commissioner shall endorse such license to include the operation of hoisting machinery without limitation or restriction to a holder of a valid certificate of qualification on December twenty-ninth, nineteen hundred sixty-nine, provided application for such endorsement is made prior to the expiration of said certificate and he or she submits proof of satisfactory experience in the operation of cranes with booms, including jibs and other extensions, exceeding two hundred feet in length or truck mounted tower cranes exceeding two hundred feet in height.
- (3) The commissioner shall endorse such license to

include the operation of hoisting machinery without limitation or restriction to a holder of a valid certificate of qualification on December twenty-ninth, nineteen hundred sixty-nine, provided that the applicant shall satisfactorily demonstrate by operation that he or she is competent to operate a crane with a boom, including jibs and other extensions, exceeding two hundred feet in length or truck mounted tower crane exceeding two hundred feet in height.

- (c) Notwithstanding the provisions of section 26-134 of this subchapter, the commissioner shall issue a special hoisting machine operator license to an applicant who shall have had at least two years' full time paid experience and who makes application by December twenty-ninth, nineteen hundred seventy, or has satisfactorily passed a practical examination in the operation of equipment for which such license is to be issued.

§[B26-5.4] 26-170 License fees.-The fee for a license shall be as follows:

- (a) Ten dollars for a license, as described in paragraphs one and two of subdivision (b) of section 26-169 of this subchapter.
- (b) Twenty-five dollars for a license as provided in subdivision c of section 26-168 of this subchapter.
- (c) Fifty dollars for a license as provided in subdivisions (a) and (b) of section 26-168 and paragraphs one and three of subdivision (b) of section 26-169 of this subchapter.
- (d) Ten dollars for the annual renewal of any license.

§[B26-5.5] 26-171 License conditions.-All licenses shall be conditioned upon and subject to the provisions of sections 26-136 through 26-139 of this subchapter.

**ARTICLE 6
RIGGER LICENSE**

§[B26-6.0] 26-172 Requirement of license.-It shall be unlawful to hoist or lower any article on the outside of any building in the city of New York on and after December sixth, nineteen hundred sixty-eight, unless such work is performed by or under the supervision of a person licensed as a rigger under the provisions of this article, or a person qualified or licensed as a rigger prior to such date as provided in section 26-131 of this subchapter. The provisions of this article shall apply to the erection or dismantling of a tower crane or a climber crane on a building and to the use of a derrick in their removal, except that such erection or dismantling may be performed by or under the direct supervision of a person licensed by the city for such purpose in accordance with rules and regulations promulgated by the department.

§[B26-6.1] 26-173 Exemptions.-The provisions of this article shall not apply to the hoisting or lowering of signs

if the person so doing possesses a license as a sign hanger, as provided in article seven of this subchapter, or to the hoisting or lowering of any building materials or equipment, other than boilers and tanks, in the course of the construction or alteration of any building or structure.

§[B26-6.2] **26-174 Classification of rigger licenses.-** Such licenses shall be classified as follows:

(a) **Master rigger license.**-Licenses the holder thereof to hoist or lower any article, irrespective of weight, on the outside of any building.

(b) **Special rigger license.**-Licenses the holder thereof to hoist or lower any article, not exceeding one thousand two hundred pounds in weight, on the outside of any building.

§[B26-6.3] **26-175 License applications.-**All applications for rigger licenses shall be subject to the provisions of section 26-132 of this subchapter; and all applicants for such licenses shall comply with and be subject to the provisions of sections 26-133, 26-134 and 26-135 of this subchapter.

§[B26-6.4] **26-176 Master rigger qualifications.-**In addition to the general qualifications prescribed in section 26-133 of this subchapter, all applicants for a master rigger license shall submit satisfactory proof establishing that the applicant has had at least 5 years' practical experience in the hoisting and rigging business; and the applicant shall also have knowledge of and be able to explain the risks incident to such business and precautions to be taken in connection therewith, safe loads [*sic*] and computation thereof, types of rigging, size and strength of ropes, cables, blocks, poles, derricks, sheerlegs and other tools used in connection with such business.

§[B26-6.5] **26-177 Special rigger qualifications.-**In addition to the general qualifications prescribed in section 26-133 of this subchapter, all applicants for a special rigger license shall submit satisfactory proof establishing that the applicant has had at least one year's practical experience in the hoisting and rigging business; and the applicant shall also have knowledge of and be able to explain the risks incident to such business and precautions to be taken in connection therewith.

§[B26-6.6] **26-178 Bond requirements.-**

a. Prior to the issuance of any master rigger license, the applicant shall file with the department a liability bond in the form of a personal bond with at least two sureties, approved by the commissioner, or a corporate surety bond, or policy of insurance, in a solvent and responsible company authorized to do business in this state, approved by the commissioner, in the sum of fifty thousand dollars conditioned for the payment of any judgment recovered against such rigger for the death of or for injury to any person caused in the operation, maintenance or use of any

rigging equipment or while engaged in any rigging operation. Such bond or policy may limit the liability of the surety or insurer on any one judgment to the sum of fifty thousand dollars for bodily injury or death, and on all judgments recovered upon claims arising out of the same transaction or transactions connected with the same subject of action, to the sum of one hundred thousand dollars, to be apportioned ratably among the judgment creditors, according to the amount of their respective judgments; and such bond or policy of insurance shall contain a provision for continuing liability thereunder, notwithstanding any recovery thereon.

b. Prior to the issuance of any master rigger license the applicant shall also file with the department a property damage bond in the form of a personal bond with at least two sureties, approved by the commissioner, or a corporate surety bond, or a policy of insurance, in a solvent and responsible company authorized to do business in this state, approved by the commissioner, in the sum of ten thousand dollars, conditioned for the payment of any judgment recovered against such rigger for damage to, or destruction of, property caused in the operation, maintenance or use of any rigging equipment or while engaged in any rigging operation. Such bond or policy of insurance shall contain a provision for a continuing liability thereunder, notwithstanding any recovery thereon.

c. Prior to the issuance of any special rigger license, the applicant shall file with the department a liability bond similar to that required of a master rigger, except that the limits thereof shall be ten thousand dollars and twenty thousand dollars, respectively, and shall also file with the department a property damage bond similar to that required of a master rigger, except that the limit thereof shall be one thousand dollars.

§[B26-6.7] **26-179 Workers' compensation.-**Prior to the issuance of any rigger license, and any renewal thereof, the applicant shall file with the department satisfactory evidence of compliance with the provisions of the state workers' compensation law.

§[B26-6.8] **26-180 License fees.-**The fee for a master rigger license shall be one hundred fifty dollars; and the annual renewal fee shall be one hundred dollars. The fee for a special rigger license shall be thirty dollars; and the annual renewal fee shall be twenty-five dollars. If application for renewal is not made within thirty calendar days prior to the expiration date of the license, the applicant shall be required to pay an additional fee of twenty dollars.

§[B26-6.9] **26-181 License conditions.-**

a. All rigger licenses shall be conditioned upon and subject to the provisions of sections 26-136 through 26-139 of this subchapter. In addition, every licensed rigger shall, while rigging operations are in progress, have placed conspicuously on the job two metal plates or wooden signs not less than eighteen inches by twenty-four

inches in size, displaying the word "danger" in letters not less than six inches high, and marked with the rigger's name, address, type of rigger license and license number.

b. Every licensed master rigger shall display prominently to the public on the place where his or her business is conducted, a metal plate or sign marked with the words "master rigger" and his or her license number immediately thereunder.

c. The holder of a rigger license shall at the time of issuance of the license and during the life thereof, have an established place of business within the city of New York. The licensee shall notify the commissioner of any change of address of his or her place of business.

ARTICLE 7 SIGN HANGER LICENSES

§[B26-7.0] **26-182 Requirement of license.**-It shall be unlawful to hoist or lower or to hang or attach any sign upon or on the outside of any building in the city after December sixth, nineteen hundred sixty-eight, unless such work is performed by or under the supervision of a person licensed as a sign hanger under the provisions of this article, or a person qualified or licensed as a sign hanger prior to December sixth, nineteen hundred sixty-eight, as provided in section 26-131 of this subchapter.

§[B26-7.1] **26-183 Classification of sign hanger licenses.**-Such licenses shall be classified as follows:

(a) **Master sign hanger license.**-Licenses the holder thereof to hoist or lower or to hang or attach any sign, irrespective of weight, upon or on the outside of any building.

(b) **Special sign hanger license.**-Licenses the holder thereof to hoist or lower or to hang or attach any sign, not exceeding one hundred fifty square feet in area, measured on one side only, nor exceeding one thousand two hundred pounds in weight, upon or on the outside of any building.

§[B26-7.2] **26-184 Exemptions.**-The provisions of this subchapter shall not apply (a) to signs not exceeding seventy-five square feet in area, measured on one side only, nor exceeding twenty-five pounds in weight; or (b) to signs supported directly on the ground; or (c) to directional signs; or (d) to temporary signs erected during the construction or alteration of a building and related to such work; or (e) to the erection or placing of any signs by employees of the city, any city department or other governmental agency.

§[B26-7.3] **26-185 License applications.**-All applications for sign hanger licenses shall be subject to the provisions of section 26-132 of this subchapter; and all applicants for such licenses shall comply with and be subject to the provisions of sections 26-133, 26-134 and 26-135 of this

subchapter.

§[B26-7.4] **26-186 Master sign hanger qualifications.**-In addition to the general qualifications prescribed in section 26-133 of this subchapter, all applicants for a master sign hanger license shall submit satisfactory proof establishing that the applicant has had at least five years practical experience in sign hanging during the period of seven years immediately preceding the date of his or her license application; and the applicant shall also have a knowledge of and ability to read plans and specifications relating to sign construction and erection, including supporting framework and other supports, and a knowledge of the problems and practices of sign construction and hanging and be familiar with the equipment and tools used in sign hanging.

§[B26-7.5] **26-187 Special sign hanger qualifications.**-In addition to the general qualifications prescribed in section 26-133 of this subchapter, all applicants for a special sign hanger license shall submit satisfactory proof establishing that the applicant has had at least three years' practical experience in sign hanging during the period of five years immediately preceding the date of the license application; and the applicant shall also have a knowledge and ability to read plans and specifications relating to sign construction and erection, including supporting framework and other supports, and a knowledge of the problems and practices of sign construction and hanging and be familiar with the equipment and tools used in sign hanging.

§[B26-7.6] **26-188 Bond requirements.**-

a. Prior to the issuance of any sign hanger license, the applicant shall file with the department a liability bond in the form of a personal bond with at least two sureties, approved by the commissioner, or a corporate surety bond, or policy of insurance, in a solvent and responsible company authorized to do business in this state, approved by the commissioner, in the sum of fifty thousand dollars conditioned for the payment of any judgment recovered against such sign hanger for the death of or for injury to any person caused in the operation, maintenance or use of any sign hanging equipment or while engaged in any sign hanging operation. Such bond or policy may limit the liability of the surety or insurer on any one judgment to the sum of fifty thousand dollars for bodily injury or death, and on all judgments recovered upon claims arising out of the same transaction or transactions connected with the same subject of action, to the sum of one hundred thousand dollars, to be apportioned ratably among the judgment creditors, according to the amount of their respective judgments; and such bond or policy of insurance shall contain a provision for continuing liability thereunder, notwithstanding any recovery thereon.

b. Prior to the issuance of any sign hanger license, the applicant shall also file with the department a property

damage bond in the form of a personal bond with at least two sureties, approved by the commissioner, or a corporate surety bond, or a policy of insurance, in a solvent and responsible company authorized to do business in this state, approved by the commissioner, in the sum of ten thousand dollars, conditioned for the payment of any judgment recovered against sign hanger for damage to, or destruction of, property caused in the operation, maintenance or use of any sign hanging equipment or while engaged in any sign hanging operation. Such bond or policy of insurance shall contain a provision for a continuing liability thereunder, notwithstanding any recovery thereon.

§[B26-7.7] 26-189 Workers' compensation.-Prior to the issuance of any sign hanger license, and any renewal thereof, the applicant shall file with the department satisfactory evidence of compliance with the provisions of the state workers' compensation law.

§[B26-7.8] 26-190 License fees.-The fee for a master sign hanger license shall be one hundred dollars and the annual renewal fee for such license shall be fifty-five dollars; the fee for a special sign hanger license shall be seventy-five dollars, and the annual renewal fee shall be forty dollars. If application for renewal is not made within thirty calendar days prior to the expiration date of the license, the applicant shall be required to pay an additional fee of thirty dollars.

§[B26-7.9] 26-191 License conditions.-

- a. All sign hanger licenses shall be conditioned upon and subject to the provisions of sections 26-136 through 26-139 of this subchapter. In addition, every licensed sign hanger shall, while sign hanging operations are in progress, have placed conspicuously on the job two metal plates or wooden signs not less than eighteen inches by twenty-four inches in size, displaying the word "danger" in letters not less than six inches high, and marked with the sign hanger's name, address, type of "sign hanger" license and license number.
- b. Every licensed sign hanger shall display prominently to the public on the place where his or her business is conducted, a metal plate or sign marked with the words "sign hanger" and his or her license number immediately thereunder.
- c. The holder of a sign hanger license shall at the time of issuance of the license and during the life thereof, have an established place of business within the city of New York. The licensee shall notify the commissioner of any change of address of his or her place of business.

ARTICLE 8 OIL-BURNING EQUIPMENT INSTALLER LICENSE

§[B26-8.0] 26-192 Requirement of license.-It shall be unlawful to install oil-burning equipment in the city on and after December sixth, nineteen hundred sixty-eight, unless such work is performed by or under the supervision of a person licensed as an oil-burning equipment installer under the provisions of this article, or a person qualified or licensed as an oil-burning equipment installer prior to December sixth, nineteen hundred sixty-eight, as provided in section 26-131 of this subchapter.

§[B26-8.1] 26-193 Classification of oil-burning equipment installer licenses.-

Such licenses shall be classified as follows:

(a) Class A oil-burning equipment installer license.-Licenses the holder thereof to install any type of oil-burning equipment, as an independent contractor with full responsibility for the manner in which the work is done, and for the material and equipment used, and for the control and supervision of the persons employed on the work.

(b) Class B oil-burning equipment installer license.-Licenses the holder thereof to install oil-burning equipment for the use of domestic fuel oils from number one fuel oil and including number four fuel oil (as classified in the current commercial standards published by the United States department of commerce), as an independent contractor with full responsibility for the manner in which the work is done, for the materials and equipment used, and for the control and supervision of the persons employed on the work.

§[B26-8.2] 26-194 License applications.-

All applications for oil-burning equipment installer licenses shall be subject to the provisions of section 26-132 of this subchapter; and all applicants for such licenses shall comply with and be subject to the provisions of sections 26-133, 26-134 and 26-135 of this subchapter.

§[B26-8.3] 26-195 Class A oil-burning equipment installer qualifications.-In addition to the general qualifications prescribed in section 26-133 of this subchapter, all applicants for a class A oil-burning equipment installer license shall submit satisfactory proof establishing that the applicant has had at least four years' practical experience in the installation of oil-burning equipment under the supervision of a qualified or licensed oil-burning equipment installer in the city, including at least one years experience in the installation of oil-burning equipment for the use of number five and number six fuel oils.

§[B26-8.4] 26-196 Class B oil-burning equipment installer qualifications.-In addition to the general qualifications prescribed in section 26-133 of this subchapter, all applicants for a class B oil-burning equipment installer license shall submit satisfactory proof establishing that the applicant has had at least three years' practical experience in the installation of oil-burning equipment under the supervision of a qualified

or licensed oil-burning equipment installer in the city.

§[B26-8.5] **26-197 Bond requirement.**-Prior to the issuance of any oil-burning equipment installer license, the applicant shall file with the department a bond conditioned for the payment of any loss or damage suffered by any person by reason of failure to install such equipment in accordance with the provisions of the code, the building code, the air pollution code or other applicable laws and regulations relating to oil-burning equipment. Such bond shall be in the amount of two thousand five hundred dollars and shall be approved by the commissioner as to sufficiency of sureties.

§[B26-8.6] **26-198 License fees.**-The fee for an oil-burning equipment installer license shall be seventy-five dollars; and the annual renewal fee shall be fifty dollars. If application for renewal is not made within thirty calendar days prior to the expiration date of the license, the applicant shall be required to pay an additional fee of thirty dollars.

§[B26-8.7] **26-199 License conditions.**-a. All oil-burning equipment installer licenses shall be conditioned upon and subject to the provisions of sections 26-136 through 26-139 of this subchapter.

b. The holder of an oil-burning equipment installer license shall, at the time of issuance of the license and during the life thereof, have an established place of business within the city of New York. The licensee shall notify the commissioner of any change of address of his or her place of business.

ARTICLE 9

CONCRETE TESTING LABORATORY LICENSE

§[B26-9.0] **26-200 Requirement of license.**-It shall be unlawful, on and after December sixth, nineteen hundred sixty-eight, for any person to engage in or carry on the business or calling of a concrete testing laboratory in the city, without having first obtained a license therefor from the commissioner, except as provided in section 26-131 of this subchapter.

§[B26-9.1] **26-201 License applications.**-All applications for a concrete testing laboratory license shall be submitted on forms furnished by the department, and shall be accompanied by the required fee, as hereinafter provided. Each application for such license shall set forth the name and business address of the applicant, and such information and supporting data concerning his or her equipment and qualifications as the commissioner may require. If the applicant is a partnership or a corporation, the application shall be executed by a member of the partnership or by an officer of the corporation.

§[B26-9.2] **26-202 License qualifications.**-All applicants for such license shall maintain a laboratory

within fifty miles of the city, and shall submit satisfactory proof establishing that his, her or its business is conducted by qualified personnel in accordance with procedures, safety requirements and professional standards adopted and promulgated by the commissioner under and pursuant to the provisions of subdivision b of section eleven hundred five of the charter. An investigation of the applicant's place of business equipment and personnel shall be made by the department prior to the issuance of any such license.

§[B26-9.3] **26-203 License fees.**-The fee for a concrete testing laboratory license shall be one hundred dollars; and the annual renewal fee shall be fifty dollars. If application for renewal is not made within thirty calendar days prior to the expiration date of the license, the applicant shall be required to pay an additional fee of thirty dollars.

*§[B26-9.4] **26-204 License conditions.**-

(a) All concrete testing laboratory licenses shall be conditioned upon and subject to the provisions of sections 26-136 through 26-139 of this subchapter; and all concrete testing laboratories licensed under the provisions of this article, or qualified or licensed prior to December sixth, nineteen hundred sixty-eight, as provided in section 26-131 of this subchapter, shall certify the truth and accuracy of all reports filed or required to be filed by any such laboratory under the provisions of the building code or other applicable building laws and regulations.

(b) Each laboratory shall have in responsible charge a director who shall be a registered architect or licensed professional engineer and who shall personally supervise all technical functions of the laboratory relating to testing of concrete and concrete materials.

**Local Law 65-1990.*

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**SUBCHAPTER 3
BUILDING CONSTRUCTION**

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****“C26” omitted from section numbers in this column.*

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**ARTICLE 1
GENERAL PROVISIONS**

§[C26-10.0] 26-205 Matters covered.—All matters affecting or relating to the construction, alteration, repair, demolition, removal, maintenance, occupancy and use of new and existing buildings in the city, including the erection, installation, alteration, repair, maintenance, use and operation of signs and service equipment used in or in connection therewith, are presumptively provided for in this subchapter and in the building code of the city. This subchapter does not presumptively provide for matters that are contained in the charter, the labor law, the multiple dwelling law, subchapters one and two of this chapter and chapter two of title twenty-seven, the zoning resolution, or the general city law; nor does this subchapter apply to structures on waterfront property used in conjunction with and in the furtherance of waterfront commerce and/or

navigation, or to bridges, tunnels or subways, or to structures appurtenant thereto.

§[C26-11.0] 26-206 All new work to conform.-

All building work performed in the city on and after December sixth, nineteen hundred sixty-eight, shall conform to the provisions of this subchapter except that any work for which an application for a permit was filed prior to December sixth, nineteen hundred sixty-eight, and any work for which an application for a permit is filed within twelve months after the effective date of this subchapter, may be performed, at the option of the owner, in its entirety either in accordance with and subject to the requirements of this subchapter or in accordance with and subject to the requirements of the building laws and regulations previously in force in the city, provided that such work is commenced within twelve months after the date of issuance of a permit therefor and is continuously carried on to completion. This section shall not apply to the requirements of article ten of subchapter nineteen of title twenty-seven of the code which shall become effective December twenty-ninth, nineteen hundred sixty-nine.

ARTICLE 2 PERMITS

§[C26-20.0] 26-207 Requirement of permit.-

It shall be unlawful, on and after December sixth, nineteen hundred sixty-eight, to construct, alter, repair, demolish, or remove any building in the city, or to erect, install, alter, repair, or use or operate any signs or service equipment in or in connection therewith, unless and until a written permit therefor shall have been issued by the commissioner in accordance with the requirements of this subchapter and the requirements of the building code, subject to such exceptions and exemptions as may be therein provided.

§[C26-21.0] 26-208 Approval of plans.-

Whenever plans are required to be filed in connection with an application for a permit, as provided in the building code, all such plans shall be approved by the commissioner prior to the commencement of any work thereunder. All plans and all applications for approval thereof, shall comply with the requirements of the building code, subject to such exceptions and exemptions as may be therein provided; and all elevations on plans shall be referred to the United States coast and geodetic survey mean sea level datum of nineteen hundred twenty-nine, which is hereby established as the city datum.

§[C26-22.0] 26-209 Signature to 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.

ARTICLE 3 FEES

§[C26-30.0] 26-210 Requirement of fee.—No work permit or equipment use permit, when required by the provisions of the building code, shall be issued, and no plans or other statement describing building work, when required by the provisions of the building code, shall be approved, unless and until the required fee or fees therefor shall have been paid to the department in accordance with the provisions of this article, except that no fees shall be payable for work permits, equipment use permits or places of assembly permits if the owner of the building or property affected is a corporation or association organized and operated exclusively for religious, charitable or educational purposes, or for one or more such purposes, no part of the earnings of which enures to the benefits 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.

***§[C26-31.0] 26-211 Fee for approval of plans and work permits.-**

The fees required to be paid under this section, and under section 26-212 of this article, are for the filing and processing of applications for the approval of plans or other statement describing building work, the filing and processing of permit applications, the issuance or renewal of work permits, the inspection of building work, and the issuance of certificates of occupancy. 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 by or on behalf of the owner or lessee of the building premises or property affected and shall accompany the first application for the approval of plans or other statement describing the building work when submitted prior to submission of the permit application; and the whole or remainder of the total fee shall be paid before the work permit may be issued. A fee of one hundred dollars shall be paid with an application for renewal of a work permit. Foundation work, plumbing work, sign and service equipment work are included in the term "building" whenever plans for such work are required to be filed with construction or alteration plans; otherwise, separate fees shall be applied and collected for such work in accordance with the provisions of this section and section 26-212 of this article.

**Local Law 38-1990.*

***§[C26-32.0] 26-212 Computation of fees for work permits.-**

Fees for work permits shall be computed as hereinafter provided:

*****1. New buildings.**—The fees for permits to construct new buildings and open air stadia shall be computed as follows:

(a) Except as otherwise provided in paragraph (b),

twenty-five cents and fifty-three one hundredths of a cent (25.53¢) per square foot or fraction thereof, of the total floor area of the new building, but not less than one hundred dollars per structure.

(b) For a one, two or three family dwelling eleven cents and sixty-three one hundredths of a cent (11.63¢) per square foot, or fraction thereof, of the total floor area of the new building, but not less than one hundred dollars per structure.

(c) One hundred dollars for a garage for not more than three cars when such garage is accessory to a one, two or three family dwelling on the same plot when plans for such garages are filed with the application and plans for the one, two or three family dwellings to which it is accessory.

(d) One hundred dollars for the first two thousand dollars, or fraction thereof, of the cost of the structure; twenty dollars for each additional one thousand dollars, or fraction thereof, of cost to five thousand dollars of the structure; ten dollars and thirty cents for each additional one thousand dollars, or fraction thereof, of the structure cost over five thousand dollars for structures such as radio aerial towers and masts, tank structures, fire escapes and other structures to which fees may not be readily applied under the foregoing provisions. Applications for elevator work submitted separately, seventy dollars.

****Local Law 56-1993; Local Law 38-1990.*

****2. Building alterations.**—The fees for permits to alter buildings shall be computed as follows:

(a) For a one-family, two-family or three-family dwelling, one hundred dollars for the first five thousand dollars or fraction thereof, of the cost of alteration; not including the cost for the installation or alteration of any plumbing or plumbing system or fire suppression piping system; and five dollars and fifteen cents per one thousand dollars, or fraction thereof, of such cost of alterations in excess of five thousand dollars.

(b) For any building not described in paragraph (a) of this subdivision, one hundred dollars for the first three thousand dollars, or fraction thereof, of the cost of alteration; not including the cost for the installation or alteration of any plumbing or plumbing system or fire suppression piping system; twenty dollars per one thousand dollars, or fraction thereof, of the next two thousand dollars of such cost; and ten dollars and thirty cents per one thousand dollars, or fraction thereof, of such cost of alterations in excess of five thousand dollars.

***Local Law 109-1993; Local Law 107-1993; Local Law 56-1993; Local Law 38-1990; Local Law 40-1987, applies to permits applied for and inspections performed on and after July 6, 1987.*

***3. Foundation, open spaces, etc.**—The fees for foundations and earth work permits, and for permits with respect to open spaces 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 shall be computed as follows: (a) ten dollars for each two thousand square feet of area or fraction thereof, but not less than one hundred dollars; and (b) for golf driving ranges, seven dollars and fifty cents for each twenty thousand square feet of area or fraction thereof, but not less than one hundred dollars plus one hundred dollars for an accessory building not to exceed one hundred forty-four square feet.

**Local Law 38-1990.*

*****4. Demolition and removal.**—The fees for demolition and removal permits shall be computed by multiplying the street frontage in feet by the number of stories of the building times two dollars and sixty cents, provided the minimum fee shall be not less than two hundred sixty dollars. In the case of a corner lot, the larger street frontage shall be used in computation.

****Local Law 50-1988.*

****5. Plumbing and fire suppression piping systems.-**

(a) Existing buildings. - The fees for permits to install and alter plumbing and plumbing systems and for permits to install and alter fire suppression piping systems in existing buildings shall be computed as follows:

(1) For a one-family, two-family or three-family dwelling, one hundred dollars for the first five thousand dollars, or fraction thereof, of the cost of such installation or alteration; and five dollars and fifteen cents per one thousand dollars, or fraction thereof, of such cost in excess of five thousand dollars.

(2) For any building not described in subparagraph (1) of this paragraph, one hundred dollars for the first three thousand dollars, or fraction thereof, of the cost of such installation or alteration; twenty dollars per one thousand dollars or fraction thereof, of the next two thousand dollars of such cost; and ten dollars and thirty cents per one thousand dollars, or fraction thereof, of such cost in excess of five thousand dollars.

(b) New buildings. - The fees for permits to install plumbing systems and for permits to install fire suppression piping systems in new buildings shall be computed by allocating a portion of the fee for the permit to construct such new building, computed in the manner provided in subdivision one, to the applicable plumbing permit or fire suppression piping system permit, but in no event shall the fee for a permit to install a plumbing system or for a permit to install a fire suppression piping system in a new building be less than one hundred dollars. Such allocation shall be made in accordance with rules promulgated by the commissioner. Any portion of the fee charged for a permit to install a plumbing system or of the fee charged for a permit to install a fire suppression piping system in a new building that is in excess of one hundred dollars shall be deducted from the amount of the fee, computed in the manner provided in subdivision one, charged for the permit to construct such new building.

***Local Law 109-1993; Local Law 107-1993; Local Law 38-1990.*

*** 6. Signs.—**

a. The fees for permits to erect, install or alter signs shall be computed in the same manner as the computation of fees for building alterations as provided in subdivision two of this section. In addition, fees shall be payable to the department as follows:

(1) For ground signs five dollars for each one hundred square feet or fraction thereof, but not less than thirty-five dollars.

(2) For roof signs having a tight, closed or solid surface, fifteen dollars for each one hundred square feet or fraction thereof, but not less than seventy dollars.

(3) For roof signs that do not have a tight, closed or solid surface, fifteen dollars for each one hundred square feet or fraction thereof, when such signs extend to a height of not more than thirty-one feet above roof level, but not less than one hundred dollars. When such signs exceed thirty-one feet above the roof level, twenty-five dollars for each one hundred square feet or fraction thereof, but not less than one hundred thirty-five dollars.

(4) For illuminated signs projecting beyond street line having thirty square feet or less, forty-five dollars annually.

(5) For illuminated signs projecting beyond street line having more than thirty square feet but no more than fifty square feet, seventy dollars annually.

(6) For illuminated signs projecting beyond street line and having more than fifty square feet, seventy-five cents per square foot or part thereof annually, but not less than one hundred dollars.

b. In computing the fees to be charged in subparagraphs one, two and three of paragraph a of this subdivision, each face of any sign, when fronting on different streets, shall be treated as a separate sign.

c. In computing the fees to be charged under subparagraphs four, five and six of paragraph a of this subdivision, only the number of square feet of sign space on one side of such sign shall be used in computing such fee.

*** 7. Service equipment.—**

**Local Law 38-1990.*

****a.** The fees for permits to install or alter service equipment, other than fire suppression piping systems, shall be computed in the same manner as the computation of fees for alteration of buildings, except as hereinafter provided.

***Local Law 107-1993.*

b. The fees hereinafter provided for permits to install and alter oil-burning equipment shall cover the costs for the filing and processing of applications for the approval of plans or other statement describing the work, the filing and processing of permit applications and the issuance of work permits and the inspection in connection therewith.

(1) For the installation of oil-burning equipment other than that described in subparagraph two of paragraph b of this subdivision, the fee shall be forty-five dollars.

(2) For the installation of oil-burning equipment 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 business building, the fee shall be as follows:

one hundred dollars where gross output of equipment is up to and including six million BTU per hour, one hundred thirty-five dollars where gross output is from six million one thousand to twelve million BTU per hour, and one hundred seventy-five dollars where gross output exceeds twelve million BTU per hour. Where the replacement or alteration involves the size of the combustion chamber, the atomization of the fuel used or the maximum capacity of the system, such replacement or alteration shall be considered an installation; except that where the installation involves only a replacement of or alteration of the refractory combustion chamber, regardless of change of gross output, the fee shall be one hundred dollars.

(3) Gross outputs of oil-burning equipment are to be determined as follows:

(a) Cast iron boilers.—The gross IBR rating shown in column A-1 identified with the net IBR rating shown in column A-4 of table A for automatically fired boilers in the July, nineteen hundred fifty-two "IBR testing and rating code for low pressure cast iron boilers" published by the institute of boiler and radiator manufacturers, or the equivalent in later codes.

(b) Steel Boiler Institute (SBI) table one, two and three boilers.—One and one-half times the SBI net rating in BTU per hour.

(c) Warm air furnaces.—The bonnet delivery in BTU per hour as published in the manufacturer's catalogue.

(4) For the replacement of oil burning equipment as described in subparagraph (1) of this paragraph, the fee shall be thirty-five dollars, and the replacement of oil burning equipment as described in subparagraph two of this paragraph, except where such replacement is considered an installation, the fee shall be one hundred dollars.

**Local Law 38-1990.*

***8.** After an application has been withdrawn by the owner, the owner on application to the comptroller of the city of New York, and upon verification of claim by the superintendent, may obtain a refund or a portion of the fee paid as follows:

(a) If application is withdrawn prior to the commencement of examination of the application, all but forty dollars of the fee paid shall be refunded.

(b) If the application 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 fee shall be refunded to the owner.

(c) If the application is withdrawn after examination of plans, and before construction is commenced, there shall be refunded such portion of the fee paid as will leave retained by the comptroller fifty per cent of the total computed fee, but not less than one hundred dollars.

**Local Law 38-1990.*

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

10. The commissioner shall, when deemed necessary by him or her, require reasonable substantiation of the costs stated in any application for a permit or any accompanying specification or other form that may be prescribed by the department.

****§26-212.1 Civil penalty for work without a permit.-**

(a) Whenever any work for which a permit is required pursuant to section 26-207 or section 27-147 of this code has been performed without such permit, a civil penalty shall be imposed as provided in this section.

(b) In cases where work has been performed without a permit on a one-family or two-family dwelling such civil penalty shall equal two times the amount of the fee payable for such permit pursuant to this article. Provided, however, that where only part of such work has been performed without such permit, such civil penalty shall be reduced proportionately according to the amount of such work still to be performed at the time a permit is issued. Provided further, however, that such civil penalty shall not be less than one hundred dollars. No civil penalty shall be imposed if the work for which a permit is required was completed prior to the effective date of this section.

(c) In the case of other work performed without a permit, such civil penalty shall be ten times the amount of the fee payable for such permit pursuant to this article. Provided, however, that where only part of such work has been performed without such permit, such civil penalty shall be reduced proportionately according to the amount of such work still to be performed at the time a permit is issued. Provided further, however, that such civil penalty shall not be less than five hundred dollars. No civil penalty shall be imposed if the work for which a permit is required was completed prior to the effective date of this section.

(d) Such civil penalty and such permit fee shall be payable by the owner of the building on which such work is performed.

(e) Any claim that work described in subdivision (a) of this section was done prior to January first, nineteen hundred eighty-nine shall be supported by an affidavit and supporting data.

(f) No permit shall be issued for any work described in subdivision (a) of this section until the civil penalty

assessed pursuant to this section has been paid.

***Local Law 58-1988.*

§[C26-33.0] 26-213 Fees for equipment use permits.-

a. There shall be no fee for equipment use permits of indefinite duration. In other instances, the fee for equipment use permits shall be fifteen dollars for each initial permit and ten dollars for each renewal permit when the permit is for a limited term, but not to exceed fifteen dollars annually, except as hereinafter provided.

***b. The fees for permits to use and operate boilers shall be as follows: thirty dollars annually for a boiler inspected pursuant to section 27-793 of this code by a duly authorized insurance company or other qualified inspector; sixty-five dollars annually for a high-pressure boiler inspected pursuant to section 27-793 of this code by a department inspector; sixty-five dollars for each boiler inspection by a department inspector after a violation is issued.

****Local Law 62-1991; Local Law 40-1987, applies to permits applied for and inspections performed on and after July 6, 1987.*

†c. The fees for permits to use and operate elevators and other devices listed in article one of subchapter eighteen of chapter one of title twenty-seven shall be calculated on the basis of sixty-five dollars for each inspection of each device by the department, sixty-five dollars for each elevator inspection by a department inspector after a violation is issued, and thirty dollars for each inspection by a private agency.

† Local Law 48-1991; Local Law 40-1987, applies to permits applied for and inspections performed on and after July 6, 1987.

(a) The fees for private inspection agencies and inspectors employed by such agencies which are approved by the commissioner to perform inspections of elevators, escalators and power operated scaffolds required by article three of subchapter eighteen of chapter one of title twenty-seven and reference standard RS 18-1 of this code and any rules and regulations issued by the commissioner thereunder, shall be payable as follows:

Private inspection agency.-Initial certificate of qualification; one hundred dollars for each certificate approved and issued by the commissioner subsequent to July first, nineteen hundred seventy-nine; annual renewal shall be fifty dollars.

Private inspector.-Initial certificate of qualification; fifteen dollars for each certificate approved and issued by the commissioner subsequent to July first, nineteen hundred seventy-nine; annual renewal shall be ten dollars.

(b) Where a private inspection agency or a private inspector does not renew within thirty days prior to the expiration of the qualification certificate, the fee for the renewal shall be the same as the fee charged for an initial certificate of qualification.

*** §[C26-34.0] 26-214 Special fees.-**

a. The department shall be entitled to charge the following special fees:

- (1) Acknowledgements.....two dollars each.
- (2) Certificates of occupancy.....five dollars per copy.
- (3) Certificates of pending violations.
 - (a) multiple and private dwellings....thirty dollars per copy.
 - (b) all other buildings..... thirty dollars per copy.
- (4) Certified copy of licenses..... five dollars per copy.
- (5) Curb cuts.... six dollars per linear foot of curb cut including splay, except three dollars per linear foot of curb cut for a private dwelling.
- (6) Marquees.....fifteen dollars annual fee for each one hundred square feet or fraction thereof.
- (7) Places of assembly.....one hundred dollars annual fee; one hundred dollars for each place of assembly inspection by a department inspector after a violation is issued.
- (8) Preparing copy of records.
 - (a) For preparing only, or preparing and certifying, a copy of a record or document filed in the department, other than a plan, certificate of occupancy or certificate of pending violation, eight dollars for the first page and five dollars for each additional page or part thereof-a page to consist of one face of a card or other record.
 - (b) For a half size print made from microfilm of a plan thirty-six by forty-eight inches or less, eight dollars per copy and for a half size print made from microfilm of a plan exceeding thirty-six by forty-eight inches, sixteen dollars per copy.
 - (c) For extra copies of the same plan, five dollars per extra copy.
- (9) Search inspections.-
 - (a) For a requested search inspection of a building, the unit fee shall be based upon a building with a frontage of twenty-five feet and a depth of one hundred feet for which the fee shall be twenty dollars per floor for the first three floors and ten dollars for each additional floor. The minimum fee for each building shall be one hundred dollars.
 - (b) Such fee shall be increased by forty percent per floor for each twenty-five feet or fraction thereof that such structure is in excess of twenty-five feet frontage, and twenty-five percent per floor for each twenty-five feet or fraction thereof that such structure is in excess of one hundred feet in depth.
 - (c) A basement or cellar shall be considered a floor, but where a basement and cellar exist in any one structure, cellars shall not be included in computing the fee.
 - (d) When the depth of a one or two family dwelling is not more than forty feet the amount of the fee shall be fifty percent of the fee as computed herein.
- (10) Temporary sheds, fences, railings, footbridges, catch platforms, building sidewalk shanties, over-the-sidewalk chutes-thirty dollars per permit except that in case of a sidewalk shed the fee per permit shall be thirty dollars for the first twenty-five feet or fraction thereof in the length of the shed, plus ten dollars for each additional

twenty-five feet or fraction thereof.

*(11) Acceptance of materials or equipment by code test method. When any material or equipment is submitted for acceptance for compliance with code requirements by the code test method, the application shall be accompanied by the required fee.

- (a) Application for acceptance of materials or equipment-six hundred dollars.
- (b) Application for amendment of prior acceptance of materials or equipment-five hundred dollars.
- (c) Application for change of identification (change of ownership, corporate name or name of product) of prior acceptance of materials, appliances and methods of construction-three hundred fifty dollars.

*** (12) Approval of materials and appliances. a. Application for approval of materials, appliances and methods of construction—six hundred dollars.

b. Application for change of identification (change of ownership, corporate name or name of product) of prior approval of materials, appliances and methods of construction—three hundred fifty dollars.

c. Application for amendment (change in manufacturing process) of prior approval of materials, appliances and methods of construction (may be accompanied by a change in identification application without additional fee)—five hundred dollars.

**(12) Registration of persons pursuant to subdivision (a) of section 27-140.1 of the building code....fifty dollar annual fee.

b. Late payment of annual fees set forth in this subchapter shall be subject to the payment of an additional fee, not to exceed fifty percent of the annual fee, as set forth in regulations promulgated by the department.

*** (13) Application for temporary certificate of occupancy—one hundred dollars.

**Local Law 54-1991; Local Law 49-1988.*

***Local Law 72-1991. Note: There are two paragraph (12) s.*

****Local Law 54-1991.*

††† (14) Microfilming of applications and associated documentation for certificates of occupancy, temporary certificates of occupancy and/or letters of completion, as required by rule of the commissioner, as follows: thirty-five dollars for mandatory microfilming by the department of applications for new buildings and alterations, payable at time of filing. Such payment will cover the costs for up to two fiche and will be credited toward the final payment due at the time of issuance of a certificate of occupancy, temporary certificate of occupancy, or letter of completion. The charge for each additional fiche is ten dollars.

†††*Local Law 53-1993.*

**Local Law 38-1990.*

†§[C26-34.1] 26-214.1 Special fees; asbestos. (a) Whenever

pursuant to section 27-198.1 of the code application for a permit is made for work which will involve the performance of an asbestos project and for which the filing with the department of an asbestos inspection report, or proof of approval by the commissioner of environmental protection of an asbestos removal plan is required, the department shall be entitled to charge an additional fee as established by the commissioner of environmental protection in an amount not to exceed twelve hundred dollars.

(b) Whenever pursuant to section 27-198.1 of the code application for a plan approval or a permit is made for work for which an asbestos investigator is required to submit an asbestos inspection report certifying that the work to be performed will not constitute an asbestos project, the department shall be entitled to charge an additional fee as established by the commissioner of environmental protection in an amount not to exceed twenty-five dollars.

(c) For the purposes of this section, the terms "asbestos project", "asbestos inspection report" and "asbestos removal plan" shall have the meanings as are ascribed in section 24-146.1 of subchapter six of chapter one of title twenty-four of the code.

† *Local Law 55-1991; Local Law 46-1988; Local Law 76-1985, language juxtaposed per Ch. 907-1985.*

***§[C26-35.0] 26-215 Fees for the testing, approval, inspection and use of power operated cranes, derricks and cableways.-**

(a) Upon filing an application on a form prescribed by the department, for prototype approval of a mobile crane, except those with hydraulic booms, manufactured after April first, nineteen hundred seventy, to comply with the requirements of section 6.0 of reference standard RS 19-2 the following fees shall be paid:

(1) Twenty-five hundred dollars when approval has been requested in accordance with 3.1.1.1(6)(a).

(2) Thirty-five hundred dollars when approval has been requested in accordance with 3.1.1.1(6)(b).

(3) Four thousand dollars when approval has been requested in accordance with 3.1.1.1(6)(c).

(b) Upon filing an application on a form prescribed by the department for a prototype approval of a mobile crane with a hydraulic boom; a fee of four thousand dollars shall be paid.

(c) Upon filing an application for a certificate of approval on a form prescribed by the department, the applicant shall pay the following fees for each crane or derrick; five hundred dollars for mobile cranes with a boom less than two hundred feet in length; one thousand dollars for mobile cranes with a boom two hundred feet or more in length, but less than three hundred feet in length; two thousand dollars for mobile cranes with a

boom three hundred feet or more in length but less than four hundred feet in length; three thousand dollars for mobile cranes with a boom four hundred feet or more in length; and for climber and tower cranes, regardless of length; and one thousand dollars for all other cranes and derricks. However, notwithstanding the foregoing, the fee for a mobile crane for which a certificate of approval is required with a boom not exceeding fifty feet in length with a maximum rated capacity exceeding three tons shall be three hundred dollars. The boom length as herein specified shall include the jibs and any other extensions to the boom. The fees prescribed herein shall include the issuance of the initial certificate of operation.

(d) Notwithstanding the provisions of subdivision (a) above, when an applicant has obtained a temporary certificate of approval and has paid fifty percent of the fees for such approval in accordance with rules and regulations of the department of buildings, the remainder of the fee shall be paid simultaneously with the approval of the application.

(e) If the applicant withdraws his or her application for a certificate of approval, upon application to the comptroller of the city of New York and upon verification of the claim by the commissioner, 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 or if approval is denied after the department has performed its examination, no part of the fee shall be returned to the applicant.

(f) The fee for a new certificate of approval, when the boom or extension thereof is replaced or altered shall be the full fee required for testing a new crane or derrick which is replaced or altered with a boom or extension of the same size and design.

(g) The owner of any crane or derrick shall renew the certificate of operation each year. Upon filing an application for such renewals on a form prescribed by the department, the applicant shall pay the following fees for each crane or derrick: two hundred fifty dollars for mobile cranes with a boom less than three hundred feet in length, and four hundred dollars for mobile cranes with a boom three hundred feet or more in length. The length of boom herein specified includes jibs and any other extensions to the boom. The fee for derricks and all other cranes shall be two hundred fifty dollars. However, notwithstanding the foregoing, the fee for a mobile crane with a boom not

exceeding fifty feet in length with a rated capacity exceeding three tons or less shall be two hundred dollars. Further, when a crane is exempted from the requirements of a certificate of approval but not from the requirements of a certificate of operation, in accordance with paragraph three of subdivision (a) of section 27-1057 of the code, then the fee for the issuance of the initial certificate of operation shall be two hundred fifty dollars and the fee for the annual renewal thereof shall be two hundred dollars.

(h) The fee for an application for on-site inspection shall be one hundred fifty dollars, except that when such inspection shall cover mobile cranes with booms, including jibs and other extensions to the boom two hundred fifty feet or more in length, or derricks, the fee shall be as follows:

(1) Two hundred fifty dollars when the inspection is performed on normal working days.

(2) Seven hundred fifty dollars when, at the written request of the applicant, the inspection is performed on other than normal working days.

**Local Law 38-1990.*

ARTICLE 4 INSPECTIONS

§[C26-40.0] 26-216 **Right of entry and inspection.-**

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 the building code and other applicable building laws and regulations. Officers and employees of the department shall identify themselves by exhibiting the official badge of the department; and other authorized representatives of the commissioner shall identify themselves by producing and exhibiting their authority in writing signed by the commissioner.

§[C26-41.0] 26-217 **Inspections of building work.-**All inspections of building work shall be made and conducted under the direction of the commissioner and in accordance with and subject to the provisions of this title and the provisions of the building code. The commissioner may accept inspection and test reports from officers and employees of the department and other city departments and governmental agencies; and he or she may also accept inspection and test reports submitted by architects and engineers registered or licensed under the education law, or by other persons or services when he or she is satisfied as to their qualifications and reliability.

§[C26-42.0] 26-218 **Inspection of completed buildings.-**

The commissioner shall cause all completed buildings to be inspected and a record made of all violations of the laws, rules and regulations relative to such buildings that are enforced by the department.

§[C26-43.0] 26-219 **Inspection of construction machinery and equipment, etc.-**The commissioner shall cause inspections to be made of machinery and equipment used for construction and excavation work, and for cableways, hoisting and rigging purposes.

§[C26-44.0] 26-220 **Inspection of signs.-**

The commissioner shall cause all signs for which permits have been issued to be inspected at least once in every calendar year.

§[C26-45.0] 26-221 **Inspection reports.-**All inspection reports shall be in writing, and signed by the inspector, or the responsible individual, or the officer of the service, making the inspection; and a record of all inspections shall be kept by the department.

ARTICLE 5 CERTIFICATES OF OCCUPANCY

§[C26-50.0] 26-222 **Requirement of certificate of occupancy.-**It shall be unlawful to occupy or use any building erected or altered after December sixth, nineteen hundred sixty-eight, unless and until a certificate of occupancy shall have been issued by the commissioner, certifying that such building conforms substantially to the approved plans and the provisions of the building code and other applicable laws and regulations. Nothing herein contained, however, shall be deemed to prohibit the commissioner from permitting the temporary occupancy and use of a building in accordance with and subject to the provisions of the building code and paragraph three of subdivision (b) of section six hundred forty-five of the charter.

§[C26-51.0] 26-223 **Occupancy of existing buildings.-**The lawful occupancy and use of any building existing on December sixth, nineteen hundred sixty-eight, may be continued unless a change is specifically required by the provisions of the building code; and any changes of occupancy or use of any building existing on such date shall be subject to the provisions of the building code and section six hundred forty-five of the charter.

§[C26-52.0] 26-224 **Issuance and filing of certificate of occupancy.-**All certificates of occupancy shall be issued by the commissioner in accordance with and subject to the provisions of the building code and section six hundred forty-five of the charter. A record of all certificates of occupancy shall be kept by the department; and copies shall be furnished upon request, and on the

payment of the required fee.

ARTICLE 6 PROJECTIONS BEYOND STREET LINE

§[C26-60.0] **26-225 General restrictions on projections beyond street line.** - It shall be unlawful to construct any part of a building erected after December sixth, nineteen hundred sixty-eight, or altered or enlarged after such date, so as to project beyond the street line and encroach upon a public street or public space, except in accordance with and subject to the provisions of this article and the provisions of the building code. Any permission, express or implied, to construct any part of a building so as to project beyond the street line shall be revocable at will by the city council or the board of estimate; and any part of a building permitted to project beyond the street line shall be so constructed that it may be removed at any time without causing the building to become structurally unsafe in whole or in part, subject to such exceptions and exemptions as may be provided in the building code.

§[C26-61.0] **26-226 Existing projections beyond street line.** - Such parts of buildings as project beyond the street line on January first, nineteen thirty-eight, may be maintained as constructed unless their removal, rearrangement or relocation is directed by the city council or the board of estimate.

§[C26-62.0] **26-227 Rules governing projections beyond street line.**-All rules governing the construction of building projections beyond the street line and all surface and subsurface construction beyond the street line and within the curb line, including curb cuts and driveways, the coverings thereof and the entrance thereto, and the issuance of permits in reference thereto, shall be adopted and promulgated by the commissioner. Nothing herein contained, however, shall be deemed to impair the powers and duties of the commissioner of parks and recreation and the commissioner of transportation to adopt and promulgate such additional rules as may be necessary with respect to the regulation and disposition of projections and encroachments beyond the street line, under and pursuant to the provisions of section eleven hundred five of the charter.

ARTICLE 7 SAFETY IN BUILDING OPERATIONS

§[C26-70.0] **26-228 General safety requirements.**-Persons engaged in building operations shall provide reasonable and adequate protection for the safety of all persons and property affected thereby; and all such

operations shall be conducted in accordance with and subject to the safety requirements of this article and the building code, and the safety requirements of article ten of the labor law.

§[C26-71.0] **26-229 Safety requirements during excavation operations.**-The following safety requirements shall apply to the conduct of all excavation operations, whether for construction purposes or otherwise:

a. Protection of persons and adjoining property.-Any person causing an excavation to be made shall provide adequate fencing on all open sides of the excavation, with suitable means of exit therefrom, and shall also provide such sheet piling, bracing and other supports as may be necessary to prevent the sides of the excavation from caving in before permanent supports are provided. Such person shall be afforded a license to enter and inspect adjoining property, and to perform such work thereon as may be necessary for such purpose; otherwise, the duty of providing safe support for any adjoining property, shall devolve upon the owner thereof, who shall be afforded a similar license with respect to the property where the excavation is to be made.

b. Protection of adjoining buildings.-Whenever the safety of any adjoining building is or may be affected by an excavation not exceeding ten feet below the legally established curb level, it shall be the duty of the owner of such building to provide safe support for the building, provided such owner is afforded a license to enter and inspect the property where the excavation is to be made, and to perform such work thereon as may be necessary for such purpose; otherwise, such duty shall devolve upon the owner of the property where the excavation is to be made, who shall be afforded a similar license with respect to the adjoining property. If an excavation is to be carried more than ten feet below the legally established curb level, and the safety of any adjoining building is or may be affected by such part of the excavation as exceeds ten feet below the legally established curb level, it shall be the duty of the person causing such excavation to be made to provide safe support for such building regardless of the depth of its foundations, provided such person is afforded a license to enter and inspect the adjoining building and property, and to perform such work thereon as may be necessary for such purpose; otherwise, such duty shall devolve upon the owner of the adjoining building, who shall be afforded a similar license with respect to the property where the excavation is to be made.

c. Support of party walls.-Whenever an adjoining party wall is intended to be used by the person causing an excavation to be made, and such party wall is in good condition and sufficient for the uses of the existing and proposed buildings, it shall be the duty of such person to protect such party wall and support it by proper foundations, so that it shall be and remain practically as safe as it was

before the excavation was commenced.

d. Owner responsibility.-The responsibility of affording any license referred to in subdivisions (a) and (b) of this section and in section 26-230 of this article, shall rest upon the owner of the property involved; and in case any tenant of such owner fails or refuses to permit the owner to afford such license, such failure or refusal shall be a cause to the owner for dispossessing such tenant through appropriate legal proceedings for recovering possession of real property.

§[C26-72.0] 26-230 Protection of roofs, skylights, etc.-Whenever any building is to be constructed above the roof of an adjoining building, it shall be the duty of the person causing such building to be constructed to protect the roof, skylights and other roof outlets of the adjoining building from injury, and to use every reasonable means to avoid interference with the use of the adjoining building during the course of construction. Such person shall be afforded a license to enter and inspect the adjoining building and perform such work thereon as may be necessary for such purpose; otherwise, the duty of protecting the roof, skylights and other roof outlets of the adjoining building shall devolve upon the owner thereof. In addition, any person having the duty to alter or maintain chimneys of any adjoining building under and pursuant to the provisions of the building code or other applicable laws and regulations, shall likewise be afforded a license to enter and inspect such adjoining building and perform such work thereon as may be necessary for such purpose; otherwise, such duty shall devolve upon the owner thereof.

§[C26-73.0] 26-231 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, 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.

§[C26-74.0] 26-232 Retaining walls.-The following requirement shall apply to the construction of retaining walls.

a. Retaining walls to conform to street regulation.-When the regulation of a lot, in conformity with section 26-231 of this article, requires the ground on such lot to be raised or lowered and kept higher than the ground of

an adjoining lot, provided the ground of such adjoining lot is not maintained in a grade lower than in conformity with the street or streets on which it is situated, any necessary retaining wall shall be made and maintained jointly by the owners of the land on each side and shall stand one-half upon the land of each owner, unless otherwise agreed to by both owners.

b. Retaining walls to support adjoining earth.-Where an excavation has been made or a fill placed on any lot within the legal grade required by section 26-231 of this article, and the adjoining land is maintained at a grade in conformity with or lower than the street or streets on which it is situated and is without permanent structures other than frame sheds or similar structures, any retaining wall which shall be necessary to support the adjoining earth shall stand equally upon the lot of each owner and shall be made and maintained jointly by the owners of the land on each side, unless otherwise agreed to by both owners.

c. Surplus retaining wall.-Where any owner shall insist on maintaining his or her ground either higher or lower than the legal regulation as provided in section 26-231 of this article, the surplus retaining wall, which may be necessary to support such height or provide for such excavation, shall be made and maintained at the sole expense of such owner, and such additional thickness as may be required shall be built on the land of such owner.

d. Removal of retaining walls.-Any retaining wall standing partly on the land of each owner may be removed by either owner when the necessity for such retaining wall ceases to exist.

§[C26-75.0] 26-233 Maintenance and repair of protection fences and retaining walls.-Unless otherwise provided by special agreement between them, the owners of adjoining properties shall be responsible jointly for the proper maintenance and repair of partition fences and retaining walls dividing their properties; and each such owner shall be responsible for one-half of the costs of maintaining and repairing such fences and retaining walls, except that where the replacement of a partition fence removed by one owner is necessary for safety, the owner removing the fence shall replace it at his or her own cost.

§[C26-76.0] 26-234 Report and inspection of unsafe buildings and property.-Whenever persons engaged in building operations have reason to believe in the course of such operations that any building or property is dangerous or unsafe, such person shall forthwith report his or her belief in writing to the commissioner of buildings, who shall thereupon cause an inspection to be made of such building or property; and if such building or property is found to be dangerous or unsafe, the commissioner shall cause such action to be taken as he or she may deem

necessary under and pursuant to the provisions of article eight of this subchapter.

ARTICLE 8 UNSAFE BUILDINGS AND PROPERTY

§[C26-80.0] 26-235 Removal or repair of structures.-

Any structure or part of a structure or premises that from any cause may at any time become dangerous or unsafe, structurally or as a fire hazard, or dangerous or detrimental to human life, health or morals, shall be taken down and removed or made safe and secure. A vacant building which is not continuously guarded shall have all openings sealed in a manner approved by the commissioner, and it shall be the duty of the owner thereof promptly to make any repairs that may be necessary for the purpose of keeping such building sealed. Any vacant building not continuously guarded or not sealed and kept secure against unauthorized entry as herein before provided shall be deemed dangerous and unsafe as a fire hazard and dangerous and detrimental to human life, health and morals within the meaning of this article.

§[C26-80.5] 26-236 Record and notice of unsafe structures or premises.-

a. Docket, order and notice.-Immediately upon the receipt of a report by any officer or employee of the department that a structure or part of a structure or premises is unsafe or dangerous, structurally or as a fire hazard, or is dangerous or detrimental to human life, health or morals, the superintendent shall cause the report to be entered upon a docket of unsafe structures and premises. Such docket shall be kept in the department. The owner, or one of the owners, executors, administrators, agents, lessees or any other person who may have a vested or contingent interest in the structure or premises, shall be served with a printed or written notice containing a description of the structure or premises deemed unsafe or dangerous, or detrimental to human life, health or morals, and an order requiring such structure or premises to be made safe and secure, or removed, or to be vacated and made safe and secure as may be deemed necessary by the superintendent. Such notice shall require the person thus served immediately to certify to the superintendent his or her acceptance or rejection of the order. The notice shall further notify said person that upon his or her refusal or neglect to comply with any of the requirements of this section or of section 26-237 of this article, a survey of the premises named in such notice will be made at a time and place therein named, in accordance with section 26-238 of this article. The notice shall also set forth that, if the premises referred to therein are reported unsafe or dangerous by

the surveyors, their report will be placed before the supreme court and that a trial upon the allegations and statements contained therein, whether such report contains more or less than the notice of survey, will be had before such court at a time and place named in such notice, to determine whether the unsafe or dangerous structures or premises shall be vacated and repaired and secured, or repaired and secured, or taken down and removed, and that a report of such survey, reduced to writing, shall constitute the issue to be placed before the court for trial.

b. Manner of service of order and notice.-The order and notice pursuant to this section shall be served by delivering to and leaving a copy of the order and notice with the person to whom the order and notice is addressed, if such person can be found within the city after diligent search. In the event that such service cannot be made, service shall be made in accordance with the provisions of subdivision d of section 26-244 of this subchapter.

§[C26-81.0] 26-237 Voluntary abatement of unsafe or dangerous conditions.-

If the person served with a notice as specified in section 26-236 of this article shall immediately certify his or her assent to the securing or removal of such unsafe or dangerous structures or premises, or such structure which is dangerous or unsafe as a fire hazard or detrimental to human life, health or morals, he or she shall be allowed twenty-four hours, running from the time of service of such notice, within which to commence the abatement of the unsafe, dangerous or detrimental condition. Such person shall employ sufficient labor and assistance to secure or remove such conditions as expeditiously as possible.

§[C26-81.5] 26-238 Survey.-

a. Identity of surveyors.-The survey referred to in section 26-236 of this article shall be made by three competent persons, of whom one shall be the superintendent, or an engineer or an inspector designated in writing by such superintendent; another shall be a licensed architect, appointed either by the county chapter of the American [*sic*] institute of architects of the borough in which the survey is to be made or by the New York society of architects, Brooklyn society of architects, or a licensed professional engineer appointed by the New York association of consulting engineers or by the county chapter of the New York society of professional engineers of the borough in which the survey is to be made; and the third shall be a practical builder, a licensed professional engineer or a licensed architect appointed by the person served with a notice pursuant to section 26-236 of this article. In case the person served with such notice shall neglect or refuse to appoint such surveyor, the other two surveyors shall make the survey. In case they disagree, they shall appoint a third person to take part in such

survey, who shall be a practical builder, licensed professional engineer or an architect of at least ten years' practice, whose decision shall be final.

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

c. Compensation of surveyors.- The architect appointed by the county chapter of the American [sic] institute of architects of the borough in which the survey is to be made, or by New York society of architects, the Brooklyn society of architects, or the engineer appointed by the New York association of consulting engineers, or by a chapter of the New York society of professional engineers located in New York city, as herein before provided, who may act on any survey called in accordance with the provisions of this article, and the third surveyor who may have been called in the case of disagreement provided for in subdivision a of this section, shall each be paid the sum of fifty dollars by the finance department upon the voucher of the superintendent. The city is hereby given a cause of action against the owner of the structure surveyed, and of the lot or parcel of land on which the structure is situated, for such sum with interest. The amount so collected shall be paid over to the finance department in reimbursement of the amounts paid as aforesaid.

§[C26-82.0] 26-239 Judicial review of survey.-

a. Institution of proceeding.-Whenever the report of any such survey, had as aforesaid, shall recite that the structure or premises thus surveyed is unsafe or dangerous, structurally or as a fire hazard, or dangerous or detrimental to human life, health or morals, the corporation counsel shall, at the time specified in the notice, place such notice and report before the justice holding a special term of the court named in the notice.

b. Precedence of proceeding.- The determination of the issue in an unsafe structure proceeding shall have precedence over every other business of such supreme court. A trial of the issue shall be held without delay, at the time specified in the notice, and shall be held by the justice holding such court or by a referee, whose decision or report in the matter shall be final, unless a jury trial is demanded, in which case the verdict of such jury shall be final.

c. Postponement of trial.-If, for any reason, the issue shall be tried at a time other than that specified in such notice, or to which the trial may be adjourned, the issue may be brought into trial at any time thereafter by the superintendent without a new survey, upon at least three days' notice of trial to the person upon whom the original notice was served, or to his or her attorney. Such notice of trial may be served in the same manner as the

original notice.

d. Precept to abate.-Upon the rendition of a verdict of the court or decision of the referee, if such verdict or decision shall find the structure or premises to be unsafe or dangerous, structurally or as a fire hazard, or dangerous or detrimental to human life, health or morals, the justice trying the case, or to whom the report of the referee trying the case shall be presented, shall immediately issue a precept directed to the superintendent, reciting such verdict or decision, and commanding him or her forthwith to vacate and repair and secure, or to repair and secure, or take down or remove the structure or part thereof or other premises that shall have been named in the report, in accordance with such verdict or decision.

§ [C26-82.5]*26-240 Repair or removal under precept.-

a. Execution of precept.- Upon receiving a precept under the provisions of section 26-239 of this article, the superintendent referred to therein shall immediately proceed to execute such precept, as therein directed, and may employ such labor and assistance and furnish such materials as may be necessary for that purpose. A precept requiring that the structure be repaired and secured shall include, but not be limited to, shoring and sealing of the structure. Whenever the demolition of any structure or part of a structure is to be carried out pursuant to any such precept, and the superintendent upon authorization by the commissioner, requests of either the commissioner of citywide administrative services or the commissioner of the department of housing preservation and development that such structure or part thereof be demolished, such demolition work, as so requested, shall be performed by or under the direction of the commissioner of citywide administrative services in accordance with the provisions of subdivisions b and c of section 4-204 of subchapter two of this chapter of the code, or the commissioner of the department of housing preservation and development. The owner of such structure, or part thereof, or premises, or any party interested therein, if he or she applies to the superintendent immediately upon the issuing of such precept and pays all costs and expenses incurred by the city up to that time, shall be allowed to perform the requirements of such precept at his or her own proper cost and expense, if the performance shall be done immediately and in accordance with the requirements of such precept. The superintendent shall have authority to modify the requirements of any precept upon application to him or her in writing by the owner of such structure, or part thereof, or premises, or his or her representative, or to seal or shore the structure upon an application by the commissioner of housing preservation and development, when such superintendent shall be satisfied that such change will secure the safety of such structure or premises equally well. After a determination to seal or shore the

structure is made by the superintendent upon application by the commissioner of housing preservation and development, written notice of such determination shall be sent by regular mail to the owner at his or her last known address. If no action to rehabilitate and restore the structure is undertaken within eighteen months following the granting of such application by the commissioner of housing preservation and development, which period may be extended for an additional six months by the superintendent upon approval of the supreme court, the structure may be demolished. The owner shall continue to have the right during such periods to request the superintendent in writing to modify the requirements of the precept.

b. Interference prohibited.-

1. It shall be unlawful for any person to interfere, obstruct or hinder the superintendent or commissioner of citywide administrative services or the commissioner of housing preservation and development or the representative of any of them, or any person who, acting under the authority conferred on his or her by such superintendent or commissioner, is performing the work directed by a precept issued out of any court as in this article provided, or the work ordered by the superintendent in accordance with such precept under the provisions of this subchapter.

2. The police commissioner shall enforce such orders or requirements when requested by the superintendent, and shall likewise enforce same at the request of the commissioner of citywide administrative services or the commissioner of housing preservation and development with respect to demolition work performed by or under the direction of such commissioner pursuant to the provisions of this section.

**Local Law 59-1996.*

§[C26-83.0] 26-241 Provision for expense of executing precept.-The superintendent may make requisition upon the comptroller for such amount of money as shall be necessary to meet the expenses of any preliminary proceedings or the execution of any order or precept issued by any court. Upon the approval of the statement of expenses thereof by any justice of the court from which such order or precept was issued, the finance department shall pay such expenses.

§[C26-83.5] 26-242 Return of precept; reimbursement of city.- Upon compliance with any precept issued to him or her in a proceeding under this article, the superintendent shall make return thereof, with an endorsement of the action thereunder and the cost and expenses thereby incurred, to the justice then holding the special term of the court from which such precept issued. Such justice shall then tax and adjust the amount endorsed upon such precept, and shall adjust and allow the disbursements of

the proceeding, together with the preliminary expenses of searches and surveys thereof, which shall be inserted in the judgment in such action or proceeding, and shall then render judgment for such amount and for the sale of the premises named in such notice, together with all the right, title and interest that the person named in such notice had in the lot, ground or land upon which such structure was placed, at the time of the filing of a notice of lis pendens in such proceedings, or at the time of the entry of judgment therein, to satisfy such judgment. Such sale shall take place in the same manner and with the same effect as sales under judgment in foreclosure of mortgages. The notice of lis pendens provided for in sections 26-235 through 26-247 of article nine of this subchapter shall consist of a copy of the notice of survey, and shall be filed in the office of the clerk of the county where the property affected by such action, suit or proceeding is located.

§[C26-84.0] 26-243 Fallen structures and structures imminently dangerous.-

**** a. Recovery of bodies from wrecked structures.-**

Where any persons are known or believed to be buried under the ruins of any fallen structure or part thereof in the city, the superintendent shall cause an examination of the premises to be made for the recovery of the bodies of the killed and injured. Whenever, in making such examination, it shall be necessary to remove any debris from the premises, the commissioners of ports and trade, parks, police and sanitation and the commissioner of transportation, respectively, when called upon by the superintendent, shall cooperate with the superintendent in carrying out the purposes of this article, and shall provide suitable and convenient places for the deposit of such debris.

***Local Law 14-1989; Local Law 5-1986, language juxtaposed per Ch. 907-1985.*

***b. Temporary safeguards for dangerous structures.-** In case there shall be, in the opinion of the superintendent, actual and immediate danger that any structure or part thereof will fall, so as to endanger life or property, he or she shall request the commissioner of citywide administrative services or the commissioner of housing preservation and development to cause the necessary work to be done to render such structure or part thereof temporarily safe until the proper proceedings provided for unsafe structures by this subchapter are instituted.

**Local Law 59-1996.*

c. Vacating structures; closing streets and sidewalks.-

Where, in the opinion of the superintendent, there shall be actual and immediate danger that any structure or part thereof will fall so as to endanger life or property, or where any structure or part thereof has fallen and life is endangered by the occupation thereof, the superintendent is hereby authorized and empowered to order and require the inmates and occupants of such structure or part

thereof to vacate the structure forthwith. The police commissioner shall enforce such orders or requirements when so requested by the superintendent.

d. Labor and materials.-For the purposes of this article, the superintendent shall employ such labor and materials as may be necessary to perform such work as expeditiously as possible. The superintendent may make requisition upon the comptroller for such amount of money as shall be necessary to meet the expenses of any direction, determination, requirement or order to perform said work.

ARTICLE 9 VIOLATIONS AND PUNISHMENTS

§[C26-84.5] 26-244 Notices of requirements or of violations.-

a. Issue of notices or orders.-All notices of the violation of any of the provisions of this subchapter or chapter one of title twenty-seven of the code, and all notices or orders required or authorized by this subchapter or chapter one of title twenty-seven of the code, directing anything to be done, including notices or orders that any structures, premises, or any part thereof, is deemed to be unsafe or dangerous, shall be issued by the superintendent and shall have his or her name affixed thereto.

b. Contents of notices or orders.-Each such notice or order, in addition to the statement of requirements, shall contain a description of the structure, premises or property affected.

c. Service of notices or orders.-Notices or orders issued by any court in any proceeding, instituted pursuant to this subchapter or chapter one of title twenty-seven of the code to restrain or remove any violation or to enforce compliance with any provision or requirement of this subchapter or chapter one of title twenty-seven of the code, may be served by delivering to and leaving a copy of the notice or order with any person violating, or who may be liable under any provision of this subchapter or chapter one of title twenty-seven of the code, or who may be designated as provided in subdivision d of section 26-247 of this article. Notices or orders to restrain or remove any violation issued by the superintendent or commissioner pursuant to this subchapter or chapter one of title twenty-seven of the code may be served by regular mail. Such notices may be served by any officer or employee of the department, or by any person authorized by the superintendent.

d. Notice or order by posting.-If the person to whom such order or notice is addressed cannot be found within the city after diligent search, such notice or order may be served by posting it in a conspicuous place upon the premises where such violation is alleged to have been placed or to exist, or to which such notice or order may refer, or which may be deemed unsafe or dangerous, and also depositing a copy thereof in a post office in the city

enclosed in a sealed, postpaid wrapper addressed to such person at his or her last known place of residence, which shall be equivalent to a personal service of such notice or order upon all parties for whom such search shall have been made.

§[C26-85.0] 26-245 Emergency measures.-

a. Stopping work and vacating and securing structures.-In case, in the opinion of the superintendent, any defective or illegal work in violation of or not in compliance with any of the provisions or requirements of this subchapter or chapter one of title twenty-seven of the code shall endanger life or property, the superintendent, or such person as may be designated by him or her, shall have the right and is hereby authorized and empowered to order all further work to be stopped in and about such structure or premises, and to require all persons in and about such structure or premises forthwith to vacate it, and also to cause such work to be done in and about the structure as in his or her judgment may be necessary to remove any danger therefrom. The reason for such order shall be supplied in writing within one working day after the issuance of the order.

b. Violations of protective measures during construction or demolition.-During the construction or demolition of a structure, the superintendent shall notify the owner of the structure affected of any failure to comply with any of the provisions of this subchapter or chapter one of title twenty-seven of the code that concern the protection of the public and workers during construction or demolition. Unless the owner so notified proceeds within twenty-four hours to comply with the orders of the superintendent, the superintendent shall have full power to correct the violation. All expenses incurred therefor shall become a lien on the property which may be enforced as provided in section 26-246 of this article.

c. Closing streets temporarily.-The superintendent may, when necessary for the public safety, temporarily close the sidewalks, streets, structures or places adjacent to a structure or part thereof, and the police commissioner, or any of his or her subordinates shall enforce all orders or requirements made under this article, when so requested by the superintendent.

§[C26-85.5] 26-246 Judicial remedies.-

a. Action or proceeding, generally.-Whenever the superintendent believes that any structure, or any portion thereof, or any plumbing or other mechanical equipment, the construction, removal or demolition of which is regulated, permitted or forbidden by this subchapter or chapter one of title twenty-seven of the code is being constructed, removed or demolished, or has been constructed, in violation of, or not in compliance with any of the provisions or requirements of this subchapter or

chapter one of title twenty-seven of the code, or in violation of any detailed statement of specifications or plans submitted and approved thereunder, or of any certificate or permit issued thereunder; or that any provision or requirement of this subchapter or chapter one of title twenty-seven of the code, or any order or direction made thereunder has not been complied with, or that plans and specifications for plumbing and other mechanical equipment have not been submitted or filed as required by this subchapter or chapter one of title twenty-seven of the code; the superintendent may, in his or her discretion, through the corporation counsel, institute any appropriate action or proceeding at law or in equity to restrain, correct or remove such violation, or the execution of any work thereon, or to restrain or correct the erection or alteration of, or to require the removal of, or to prevent the occupation or use of, such structure. Any person who shall maintain or continue any structure, or any portion thereof, or the occupancy or use thereof, or any plumbing or mechanical equipment in violation of any of the provisions of this subchapter or chapter one of title twenty-seven of the code, after having been duly notified as provided in this subchapter or chapter one of title twenty-seven of the code that such structure, or any portion thereof, or the occupancy or use thereof, or that such plumbing or any mechanical equipment is in violation of any provision of this subchapter or chapter one of title twenty-seven of the code, shall be subject to any action or proceeding and any punishment that is provided in this article for the commission of the violation, except that any person shall be subject to any action or proceeding and any punishment that is provided in this article for the commission of the violation, without prior notification that a violation exists, where the violation is any of the following types:

1. A violation which produces an imminent hazard to persons or property by reason of a change of occupancy or use without a permit, or because of the obstruction of exits or unlawful change of exits, or by reason of permitting in a place of assembly more than the approved number of persons.
2. A violation due to the omission of protective equipment or construction which would safeguard persons or property during construction or demolition.
3. A violation that is due to work being done by an unlicensed or non qualified person, when the law requires that such work be done only by a person licensed or possessed of a certificate of qualification to do such work.
4. A violation that consists of doing work without a permit.
5. A violation for failure to have a required current place of assembly permit or failure to have sprinklers or emergency lighting installed as required by law.

b. Corporation counsel to act.-The corporation counsel shall institute any and all actions and proceedings, either

legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this subchapter or chapter one of title twenty-seven of the code.

c. Courts having jurisdiction.-All courts of civil jurisdiction in the city shall have full legal and equitable jurisdiction over any and all suits and proceedings authorized by this subchapter or chapter one of title twenty-seven of the code to be brought for the recovery of any fine or the enforcement of any provision of this subchapter or chapter one of title twenty-seven of the code, and to make appropriate orders and render judgment therein according to law, so as to give force and effect to the provisions of this subchapter or chapter one of title twenty-seven of the code. Such courts shall give preference to such suits and proceedings over all others. No court shall lose jurisdiction of any action hereunder by reason of a plea that the title to real estate is involved if the object of the action is to recover a fine for the violation of any of the provisions of this subchapter or chapter one of title twenty-seven of the code.

d. Restraining order.-In any such action or proceeding the city may, in the discretion of the superintendent and on this affidavit setting forth the facts, apply to any court of record in the city or to a judge or justice thereof, for an order enjoining and restraining all persons from occupying or using for any purpose whatever or doing, or causing or permitting to be done, any work in or upon such structure, or in or upon such part thereof as may be designated in such affidavit, until the hearing and determination of such action and the entry of final judgment therein. The court, or judge or justice thereof, to whom such application is made, is hereby authorized forthwith to make any or all of the orders above specified, as may be required in such application, with or without notice, and to make such other or further orders or directions as may be necessary to render the same effectual. No undertaking shall be required as a condition to the granting or issuing of such injunction order, or by reason thereof.

e. Judgment.-All courts in which any action or proceeding is instituted under this subchapter or chapter one of title twenty-seven of the code shall, upon the rendition of a verdict, report of a referee, or decision of a judge or justice, render judgment in accordance therewith.

f. Lien of judgment.-Any judgment rendered in an action or proceeding instituted under this subchapter or chapter one of title twenty-seven of the code shall be and become a lien upon the premises named in the complaint in such action, such lien to date from the time of filing a notice of lis pendens in the office of the clerk of the county wherein the property affected by such action, suit or proceeding, is located. Every such lien shall have priority before any mortgage or other lien as may exist prior to such filing except tax and assessment liens.

g. Lis pendens.-The notice of lis pendens referred to in

this article shall consist of a copy of the notice issued by the superintendent, requiring the removal of the violation, and a notice of the suit or proceedings instituted, or to be instituted thereon. Such notice of lis pendens may be filed at any time after the service of the notice issued by the superintendent as aforesaid; provided he or she may deem such action to be necessary. Any notice of lis pendens filed pursuant to the provisions of this subchapter or chapter one of title twenty-seven of the code may be vacated and cancelled of record upon an order of a justice of the court in which such suit or proceeding was instituted or is pending, or upon the consent in writing of the corporation counsel. The clerk of the county where the notice is filed is hereby directed and required to mark any such notice of lis pendens, and any record or docket thereof, as vacated and cancelled of record upon the presentation and filing of a certified copy of such order or consent.

h. Costs.-In no case shall a department, or any officer thereof, be liable for costs in any action, suit or proceeding that may have been, or may hereafter be, instituted or commenced in pursuance of this subchapter or chapter one of title twenty-seven of the code.

i. Officers not liable for damages.-An officer of a department, acting in good faith and without malice, shall be free from liability for acts done in any action or proceeding instituted under any provision of this subchapter or chapter one of title twenty-seven of the code, or by reason of any act or omission in the performance of his or her official duties.

§[C26-86.0] 26-247 Judicial orders.-

a. Judicial orders to comply with notices or orders.-In case any notice or direction authorized to be issued by this subchapter or chapter one of title twenty-seven of the code is not complied with within the time designated therein, the city, by the corporation counsel, may, at the request of the superintendent, apply to the supreme court, at a special term thereof, for an order directing the superintendent to proceed to make the alterations or remove the violation, as may be specified in such notice or direction.

b. Judicial orders to vacate for violations.-Whenever any notice or direction so authorized shall have been served as provided in this article, and shall not have been complied with within the time designated therein, the corporation counsel shall, at the request of the superintendent, in addition to, or in lieu of any other remedy provided for by this subchapter or chapter one of title twenty-seven of the code, apply to the supreme court, at a special term thereof, for an order directing the superintendent to vacate such structure or premises, or so much thereof as he or she may deem necessary, and prohibiting the use or occupancy of such structure or premises for any purpose specified in such order until such notice shall have been

complied with.

c. Responsibility of lessees or occupants.-In case any of the notices or orders of the court herein mentioned shall be served upon any lessee or party in possession of the structure or premises therein described, it shall be the duty of the person upon whom such service is made, if such person knows [*sic*] the address of the owner or agent of the structure or premises named in the notice, to give immediate notice to such owner or agent if such owner or agent shall be within the city, and his or her residence be known to such person, and, if such owner or agent shall be outside the city, by depositing such notice in any post office in the city, properly enclosed in a post paid wrapper addressed to such owner or agent at his or her then known place of residence.

d. Designation of agent by an owner of a structure.-Any owner of real estate or of a structure thereon may execute and acknowledge a written designation of a resident of the city upon whom may be served any notice of violation, notice to make safe, notice of survey, summons, mandate, or any paper or process, issued under a provision of this subchapter or chapter one of title twenty-seven of the code, and may file such designation, with the written consent of the person so designated, duly acknowledged in the office of the superintendent. Such designation must specify the location of the property with respect to which the designation is made, the residence and place of business of the person making it and of the person designated. Such designation shall remain in force during the period specified therein, if any, or until revoked by the death or legal incompetency of either of the parties, or until the filing of a revocation by either of the parties, duly acknowledged and endorsed, with the consent of the superintendent. The superintendent shall file and index each designation and shall note, upon the original designation and index, the filing of a revocation. While the designation remains in force, as prescribed in this article, a notice of violation, notice to make safe, notice of survey, summons, mandate, or any paper or process under any provision of this subchapter or chapter one of title twenty-seven of the code, shall be served upon the person so designated, in like manner and with like effect, as if it were served personally upon the person making the designation, even if such person be present in the city.

e. Reimbursement of city for expenses.-The expenses and disbursements incurred in the carrying out of any order issued as provided in subdivisions a and b of this section shall become a lien upon the structure or premises named in the order, from the time of filing of a copy of the order, with a notice of lis pendens as provided in this subchapter or chapter one of title twenty-seven of the code, in the office of the clerk of the county where the property affected by such action, suit or proceeding is located; and the supreme court, to whom application shall be made, is hereby authorized and directed to grant any of

the orders above named, and to take such proceedings as shall be necessary to make them effectual, and any justice to whom application shall be made is hereby authorized and directed to enforce such lien in accordance with the mechanics' lien laws applicable to the city.

§[C26-86.5] 26-248 Punishments.-

a. General punishments.- Except as hereinafter provided with respect to the amount of the fine, the owner of any structure, or part thereof, or land, where any violation of this subchapter or chapter one of title twenty-seven of the code shall be placed, or shall exist, and any person who may be employed or assist in the commission of any such violation, and any and all persons who shall violate any of the provisions of this subchapter or chapter one of title twenty-seven of the code or fail to comply therewith, or any such requirement thereof, or who shall violate or fail to comply with any detailed order or rule made thereunder, or who shall build in violation of any detailed statement of specifications or plans, submitted and approved thereunder, shall severally, for each and every such violation or non-compliance, respectively, be punished by a fine of not more than five thousand dollars.

b. Heating plant and fire prevention violations.- Any person who shall violate any of the provisions of this subchapter or chapter one of title twenty-seven of the code, as to the construction of chimneys, fireplaces, flues, warm-air pipes or furnaces, or who shall violate any of the provisions of this subchapter or chapter one of title twenty-seven of the code relating to the framing or trimming of timbers, girders, beams, or other woodwork in proximity to chimney flues or fireplaces, shall be punished by a fine of one hundred dollars.

c. Violations of the provisions for the registration of plumbers.- Any person, corporation or co-partnership that shall violate any of the provisions of section 26-146 of this chapter, shall be punished by a fine of not more than two hundred fifty dollars or by imprisonment not exceeding three months, or by both, and in addition, shall forfeit any certificate of registration that may be held at the time of such conviction, provided that when such violation is of the provision relating to the posting of a metal plate, no punishment of imprisonment shall be imposed, and the fine shall not be more than fifty dollars for the first offense, but shall be not less than two hundred dollars and not more than five hundred dollars for a subsequent offense.

d. Continuing violations after notice.-

1. Except as otherwise provided in paragraph two of this subdivision, any person who, having been served with a notice as prescribed in this subchapter or chapter one of title twenty-seven of the code to remove any violation or comply with any requirement of this subchapter or chapter one of title twenty-seven of the code, or with any order or rule made thereunder, shall fail to comply with

such notice within ten days after such service or shall continue to violate any requirement of this subchapter or chapter one of title twenty-seven of the code in the respect named in such notice shall be, upon conviction, guilty of an offense punishable by a fine of not less than two hundred fifty dollars nor more than five hundred dollars for the first such violation, not less than five hundred dollars no more than one thousand dollars for the second such violation, not less than one thousand dollars nor more than two thousand dollars for the third such violation, and not less than two thousand dollars nor more than five thousand dollars for the fourth such violation and for every subsequent violation, or, for any such violation, by imprisonment for not more than ninety days, or by both fine and imprisonment.

2. Notwithstanding the provisions of paragraph one of this subdivision, any person who shall convert, or knowingly take part or assist in the conversion of a residence which is legally approved for occupancy as a one-family dwelling, to a dwelling for occupancy by two families or which residence is legally approved for occupancy as a two-family dwelling, to a dwelling for occupancy by three families, and, having been served with a notice as prescribed in this subchapter or chapter one of title twenty-seven of the code to remove such violation, shall fail to comply with such notice within ten days after such service or shall continue to violate the provisions of this paragraph in the respect named in such notice, shall be, upon conviction, guilty of an offense punishable by a fine of not more than five hundred dollars or imprisonment for not more than sixty days or both.

3. Notwithstanding the provisions of paragraphs one and two of this subdivision, the commissioner may determine that the presence of a violation or the failure to comply with any requirement of this subchapter or chapter one of title twenty-seven of the code, or any order or rule made thereunder, constitutes a condition dangerous to human life and safety as set forth by the commissioner in the rules and regulations promulgated by the commissioner. In such event, any person who fails to remove such violation or who, fails to comply with any requirements of this subchapter or chapter one of title twenty-seven of the code, or any order or rule made thereunder, after having been served with a notice personally or by certified mail indicating that such condition exists and requiring such removal or compliance unless the removal of such condition is prevented by a labor dispute or is the result of vandalism beyond the control of the owner, shall also be liable for a civil penalty of not less than one hundred fifty dollars per day commencing on the date of the service of such notice and terminating on the date that such removal or compliance has been substantially completed. When service of such notice is made by mail to the owner, civil penalties as herein provided shall commence five days from the date of

such mailing.

e. Jurisdiction of actions to recover fines.-For the recovery of any such fine, an action may be brought in the name of the city in the New York city civil court, or other court of record, in the city; and whenever any judgment shall be rendered in such action, it shall be collected and enforced as prescribed and directed by the civil practice law and rules.

f. Discontinuance of action upon removal of violation.-If any violation shall be removed or be in process of removal within ten days after the service of a notice as prescribed in this subchapter or chapter one of title twenty-seven of the code, liability shall cease, and the corporation counsel, on request of the commissioner shall discontinue any prosecution or action pending to recover any fine, upon such removal or the completion thereof within a reasonable time. Notwithstanding the foregoing provisions where the commissioner, pursuant to subdivision d of this section, has served a notice requiring removal of a violation or compliance with the requirements of this subchapter or chapter one of title twenty-seven of the code or with any order or rule made thereunder with respect to a condition dangerous to human life and safety, liability shall cease and the corporation counsel on request of the commissioner, shall discontinue such prosecution or action only if the removal or compliance so required has been completed or substantially completed within ten days after the service of such notice. The commissioner shall, upon good cause shown grant additional time for such removal or compliance. In addition, the civil penalties shall be tolled from the date the owner certifies under oath, on a form prescribed by the commissioner, that the removal of the violation has been substantially completed. If subsequent inspection by the commissioner shows a failure to have removed the violation, the civil penalties shall be deemed to have accrued as of the first day notice of violation has been served.

g. [Inconsistent provisions]* Notwithstanding any inconsistent provisions in other subdivisions of this section, any person who is convicted of any of the following violations shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars for the first violation, not less than one thousand dollars nor more than five thousand dollars for the second violation, not less than fifteen hundred dollars nor more than five thousand dollars for the third violation, and not less than two thousand dollars nor more than five thousand dollars for the fourth violation and every subsequent violation, or, for any such violation, by imprisonment for not more than ninety days, or by both fine and imprisonment:

**Copy in brackets not enacted but probably intended.*

1. Failure to possess a required place of assembly permit;
2. Failure to install required sprinklers or emergency lighting;
3. A violation which produces an imminent hazard to persons

or property as a result of (a) a change of occupancy; (b) use without a permit; (c) obstruction of exits; (d) unlawful change of exits;

4. A violation of the provisions of:

- (a) paragraph six or seven of subdivision (c) of section 27-339 of the code; or
- (b) subdivision (c) of section 27-353 of the code; or
- (c) section 27-353.1 of the code; or
- (d) subdivision (e) of section 27-381 of the code; or
- (e) subdivision (b) of section 27-382 of the code; or
- (f) subdivision (b) of section 27-384 of the code; or
- (g) section 27-777.1 of the code; or
- (h) section 27-777.2 of the code; or
- (i) subdivision (b) of section 27-929 of the code; or
- (j) paragraph twelve of subdivision (f) of section 27-972 of the code; or
- (k) paragraph ten of subdivision (g) of section 27-972 of the code; or
- (l) subdivision (c) of section 27-975 of the code; or
- (m) subdivision (c) of section 27-989 of the code; or
- (n) section 27-996.1 of the code; or
- (o) section 27-996.2 of the code; or
- (p) section 2-4 or 4-3 of reference standard RS 13-1.

5. Working without a permit and refusing to discontinue the work.

*** h. Any permit holder or owner who shall permit any sidewalk shed to remain in place for a period of more than thirty days following the expiration of a sidewalk shed permit shall be subject to the provisions of section 26-126.1 of this code and subject to an additional fine of one hundred dollars per day for each day the shed was in place after the thirtieth day up to a maximum of \$10,000.

*** *Local Law 33-1991.*

**** §[C26-87.0] 26-249 Violations of peremptory orders.**-Any person who shall receive and fail to comply with any written peremptory order of the superintendent or commissioner issued when an immediate compliance with such order is essential to the public peace or safety, within the time specified in such order, in addition to any other punishment prescribed by law shall be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding six months, or by both.

***Local Law 23-1990.*

§[C26-87.5] 26-250 Appeal.-An appeal from any decision or interpretation of the superintendent or 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 code.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§[C26-91.0] 26-251 Illegal practices in the sale or use of lumber for construction purposes prohibited.-

a. Any person, corporation or partnership who, within the city of New York, shall have in his or her possession, or who shall place, use or affix without authorization from the owner thereof a stamp, label, trade mark, grade mark, serial number or other distinguishing mark, which stamp, label, trade mark, grade mark, serial number or mark is the property of an association of lumber manufacturers or lumber grading bureau upon any lumber sold or intended to be sold, or used or intended to be used, for or in the construction, alteration or repair of a building or other structure within the city of New York, or any person, corporation or partnership who shall knowingly sell or possess or offer for sale such lumber so marked, or who shall knowingly possess or use or prepare to use such lumber so marked for or in the construction, alteration or repair of a building or structure within the city of New York, shall be guilty of an offense punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars for the first offense, and by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not more than six months, or both, for a subsequent offense.

b. Possession of such lumber so marked, or of a colorable imitation of the principal features of a genuine stamp, label, trade mark, grade mark, serial number or mark as aforesaid, or unauthorized possession of a genuine stamp, label, trade mark, grade mark, serial number or mark, as aforesaid, by any lumber dealer, builder or contractor, or by any employee, partner, or officer thereof, shall be presumptive evidence of a violation of this section.

*** §[C26-92.0] 26-252 (a) Sidewalk sheds, fences, railings, etc.-** a. It shall be unlawful to construct any sidewalk shed, fence, railing, footbridge, catch platform, builder's sidewalk shanty, or an over-the-sidewalk chute, unless and until a special permit therefore [*sic*] shall have been issued by the building commissioner. The fees for such permit shall be as provided in section 26-214 of this chapter. Each applicant for a sidewalk shed permit shall state the reason the sidewalk shed is needed. The term of the sidewalk shed permit shall be one year, or the expiration of the contractor's insurance if such time period is less than one year. No renewals of shed permits, except for new buildings under construction, will be given unless an architect or engineer conducts a thorough examination of that part of the premises on which work is being conducted and submits a report acceptable to the commissioner, which clearly documents the condition of the applicable part of the premises and the scope of work that has been performed thereon, and estimates the time needed to complete the

work. To renew a shed permit for a new building under construction, each applicant shall file an application with the commissioner. All renewal applications shall include the name and address of the owner of the premises.

b. Following the receipt of a permit to erect a sidewalk shed, the permit holder shall post a sign on the sidewalk shed, which includes the name, address, telephone number, and permit number of the permit holder. The sign shall also include the date that the permit expires. The sign shall measure twenty-five square feet.

**Local Law 93-1996; Local Law 33-1991.*

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**SUBCHAPTER 4 REGULATION OF OUTDOOR SIGNS

ARTICLE 1 MAINTENANCE PERMIT FOR OUTDOOR SIGNS

§26-253 Permit required.- a. On and after a date to be provided by rule, and subject to the provisions of section 26-258 of this code, it shall be unlawful to place or maintain a sign, as defined in section 12-10 of the zoning resolution, on any building or premises in zoning districts M 1, M 2, M 3, C 6-5, C 6-7, C 7 or C 8 unless a permit for the maintenance of such sign has been issued by the department pursuant to this article if,

(i) such sign is within a distance of two hundred linear feet from and within view of an arterial highway or within a distance of two hundred linear feet from and within view of a public park with an area of one half acre or more, or

(ii) such sign is not within a distance of two hundred linear feet from an arterial highway or a public park with an area of one half acre or more but is within view of an arterial highway or within view of a public park with an area of one half acre or more and there are more square feet in the surface area of such sign than there are linear feet in the distance of such sign from such arterial highway or public park.

b. A permit shall be required pursuant to this section whether or not a permit is required and/or has been issued for the installation, alteration or erection of such sign pursuant to sections 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code.

c. For the purposes of this section the term arterial highway shall include all highways that are shown on the master plan of arterial highways and major streets as principal routes parkways or toll crossings and that have been designated by the city planning commission as arterial highways to which the provisions of sections 42-55 and 32-66 of the zoning resolution shall apply as shown in appendix C of the zoning resolution.

§26-254 Application.- Application for a permit or for the renewal of a permit shall be made on forms to be furnished by the department and shall contain such information, as the department shall prescribe. Except as otherwise provided in section 26-255, a permit shall remain in effect for one year and may be renewed annually. The fee for a permit or for its renewal shall be established by rule. The identification number of the permit shall be displayed on the sign or on the building or premises on which the sign is located or both, in a manner to be provided by rule.

§26-255 Permit expiration.- A permit issued pursuant to section 26-253 of this code shall expire and be of no further force or effect where:

(i) in the case of a sign which is accessory to a principal use within the meaning of section 12-10 of the zoning resolution, there has been a discontinuance of the operation of the principal use to which such sign is accessory, or in the event the sign is no longer in the same ownership as such principal use or is no longer operated and maintained substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the principal use;

(ii) in the case of any sign for which a permit has been issued pursuant to section 26-253 of this code, whether or not accessory to a principal use within the meaning of section 12-10 of the zoning resolution, there has been a change in copy which the commissioner has determined renders such sign no longer in compliance with the zoning resolution. The commissioner shall prescribe by rule procedures for the notification to the department concerning changes in copy which have been made on signs for which permits have been issued under section 26-253 of this code. Nothing herein shall be construed as limiting the ability of any person to apply for a new permit pursuant to section 26-254 of this code.

§26-256 Civil penalties.- a. Any person who places or maintains a sign on a building or premises without an appropriate permit in violation of section 26-253 of this article shall be liable for a civil penalty of, for a first

violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars. Each day's continuance shall be a separate and distinct violation. Such civil penalties may be recovered in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose the civil penalties provided for in this section. Notwithstanding the provisions of section six hundred sixty-six of the charter, a notice of violation issued by the department pursuant to this section shall not be subject to review by the board of standards and appeals.

§26-257 Construction.- This article shall not be construed to grant the right to place or maintain a sign on any building or premises where the placement or maintenance of such sign would otherwise be prohibited pursuant to the zoning resolution, the administrative code or any other provision of law. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain a sign which is unlawful pursuant to any other provisions of law nor shall any permit issued hereunder constitute a defense in an action or proceeding with respect to such an unlawful sign.

§26-258 Exemption.- The provisions of this article shall not apply to: (i) signs with a surface area of two hundred square feet or less that are located no higher than three feet above the floor of the second story of the building on which the sign is located; and (ii) advertising signs which have legal non-conforming use status pursuant to the zoning resolution, provided an outdoor advertising company or other person provides evidence of such status in a form satisfactory to the commissioner.

ARTICLE 2 OUTDOOR ADVERTISING COMPANIES

§26-259 Definitions.- As used in this subchapter, the following terms shall have the following meanings:

a. The term "affiliate" means an outdoor advertising company having a controlling interest in another outdoor advertising company or in which such other outdoor advertising company has a controlling interest. A "controlling interest" means actual working control, in whatever manner exercised, including without limitation, control through ownership, management, debt instruments or negative control, as the case may be, as defined in rules of the department.

b. The term "outdoor advertising company" means a person, corporation, partnership or other business entity that as a part of the regular conduct of its business engages in or, by way of advertising, promotions or other methods, holds itself out as engaging in the outdoor advertising business. Such term shall not include the owner or manager of a building or premises who markets space on such building or premises directly to advertisers.

c. The term "outdoor advertising business" means the business of selling, leasing, marketing, managing, or otherwise either directly or indirectly making space on signs situated on buildings and premises within the city of New York available to others for advertising purposes.

d. The term "under the control of an outdoor advertising company" in reference to a sign or sign location means that space on such sign or at such sign location is sold, leased, marketed, managed or otherwise either directly or indirectly made available to others for advertising purposes by such outdoor advertising company.

e. The term "sign" means a sign as defined in section 12-10 of the zoning resolution except that such term shall not include any sign subject to regulation by the department of transportation.

f. The term "sign location" means a building or premises on which an outdoor advertising company is entitled to sell, lease, market, manage or otherwise either directly or indirectly make space on signs available to customers, irrespective of whether a sign exists on such building or premises.

§26-260 Registration of outdoor advertising companies.-

a. On and after a date to be provided by rule, it shall be unlawful for an outdoor advertising company to engage in the outdoor advertising business or, by way of advertising, promotions or other methods, hold itself out as engaging in the outdoor advertising business unless such company is registered in accordance with this article and the rules of the department. Such rules shall establish a procedure pursuant to which the department may require the single registration of an outdoor advertising company and its affiliates. An outdoor advertising company and its affiliates made subject to single registration shall be considered a single outdoor advertising company for purposes of this article.

b. Application for registration or the renewal of registration shall be made on forms to be furnished by the department and shall contain such information, as the department shall prescribe. Registration shall remain in force for one year and may be renewed annually. The fee for such registration and for the renewal of such registration shall be established by rule.

c. Each outdoor advertising company shall post a bond to the city, with a surety approved by the department in an amount to be determined by the department, by rule based on the number of signs and any supporting structures therefor under the control of such company. The bond shall be conditioned such that the obligor:

(1) will pay all costs incurred by the city pursuant to section 26-127.3 of this code for painting over, covering, rendering ineffective or for the removal and storage of an illegal sign or sign structure under the control of such outdoor advertising company.

(2) will pay all fines or civil penalties imposed against such company pursuant to this article.

d. The department may revoke, suspend or refuse to renew the registration of an outdoor advertising company or impose fines or other penalties where it is determined by the commissioner, after notice and the opportunity to be heard, that (i) such company has made statements that it knew or should have known are false in any application or certification filed with the department, (ii) such company has failed to comply with subdivision a of section 26-261 of this code or the rules adopted pursuant to its provisions by failing to file a listing of all signs and sign locations under its control within the time and in the manner required by department rules or by filing an incomplete listing of signs and sign locations under its control, (iii) such company has been found liable for civil penalties under section 26-262 of this code on repeated occasions, and has failed to adopt and implement appropriate corrective action and internal control measures in a timely fashion pursuant to the department's rules, (iv) such company has failed to pay any civil penalties imposed pursuant to section 26-262 or amounts owed to the city pursuant to section 26-127.3 of this code or, (v) such company has violated the department's rules pertaining to outdoor advertising companies. No application for registration by an outdoor advertising company or any affiliate thereof shall be accepted for filing by the department for a period of five years after revocation of or the refusal to renew the registration of such outdoor advertising company pursuant to this subdivision. The department shall not accept or process any applications for permits to install, erect or alter signs pursuant to section 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code or for the maintenance of signs pursuant to section 26-253 where such applications are filed by or where such signs are under the control of an outdoor advertising company or any affiliate thereof after the registration of such outdoor advertising company has been revoked or not renewed or during the term of any period of suspension of such registration.

§26-261 Display of name and registration number of outdoor advertising company; location of signs.- a. An outdoor advertising company shall provide the department with a listing with the location of all signs and sign locations under the control of such outdoor advertising company in such form, containing such information and filed at such periodic intervals, as the department shall prescribe by rule. Such listing shall also indicate the permit identification numbers for the erection, alteration or installation of such signs pursuant to section 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code and, if applicable, for the maintenance of such signs pursuant to section 26-253, unless a permit is not required pursuant to such provisions, as well as the name and license number of the master or special sign hanger who hung or erected each such sign. Such listing shall contain a certification by an architect or engineer, co-signed by a responsible officer of the outdoor advertising company that all signs under the control of such outdoor

advertising company are in compliance with the zoning resolution, the administrative code and rules relating thereto. The commissioner shall make all listings filed pursuant to this subdivision accessible to the public.

b. On and after a date to be prescribed by rule, the commissioner shall require that each outdoor advertising company display, in a manner to be provided by rule, on each sign under its control or on the building or premises where each sign under its control is located or both, (i) the name and registration number of such company and, (ii) unless a permit is not required, the permit identification number for the installation, alteration or erection of the sign pursuant to section 27-147, 27-148 and article sixteen of sub-chapter one of title twenty-seven of this code and, if applicable, for the maintenance of the sign pursuant to section 26-253.

§26-262 Criminal and civil penalties for violations by outdoor advertising companies; other enforcement.-

a. (1) Notwithstanding any other provision of law, an outdoor advertising company shall be liable for a civil penalty if a sign under its control has been erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, administrative code or rules adopted pursuant thereto relating to signs.

(2) It shall be unlawful for an outdoor advertising company to sell, lease, market, manage or otherwise make available to others for advertising purposes space on a sign that has been erected, maintained, attached, affixed, painted on or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, administrative code or rules adopted pursuant thereto or to enter into any agreement for such purpose.

(3) On and after a date to be provided by rule, it shall be unlawful for an outdoor advertising company to sell or otherwise transfer control of a sign or sign location or of any right of such company to sell, lease, market, manage or otherwise make space on a sign or at a sign location available to others for advertising purposes to an outdoor advertising company that is not registered in accordance with this article and the rules of the department.

(4) An outdoor advertising company that violates any of the provisions of paragraphs one, two or three of this subdivision shall be subject to a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars.

(5) Notwithstanding any inconsistent provision of law, an outdoor advertising company shall, upon being found guilty, be subject to fines or imprisonment or both pursuant to sections 26-126 or 26-248 of the code if a sign under its control has been erected, maintained, attached, affixed, painted on, or in any other manner represented on a building or premises in violation of any provision of the zoning resolution, administrative code or rules adopted pursuant thereto relating to signs.

b. On and after a date to be provided by rule, an outdoor advertising company that engages in the outdoor advertising business or, by way of advertisement, promotion or other methods holds itself out as engaging in the outdoor advertising business without registering with the department pursuant to this article, or, after such registration has been revoked or not renewed pursuant to subdivision d of section 26-260 of this code continues to engage in such business beyond a date specified by the commissioner in his or her determination to revoke or not renew, shall be guilty of a misdemeanor subject to a fine not to exceed five thousand dollars or a sentence of imprisonment of not more than one year or both such fine and imprisonment for each offense. In the case of a continuing violation each day's continuance shall be a separate and distinct violation. Such company shall also be liable for a civil penalty of, for a first violation, not more than fifteen thousand dollars and, for a second or subsequent violation, not more than twenty-five thousand dollars. Each day's continuance shall be a separate and distinct violation.

c. Civil penalties may be recovered in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose the civil penalties provided for in this section. Notwithstanding the provisions of section six hundred sixty-six of the charter, a notice of violation issued by the department pursuant to this article shall not be subject to review by the board of standards and appeals.

d. On and after a date to be provided by rule, it shall be unlawful to erect, maintain, attach, affix, paint on, or in any other manner represent on a building or premises any sign that is under the control of an unregistered outdoor advertising company. In addition to or as an alternative to any other remedies or penalties provided under any other provision of law, the commissioner may commence a proceeding for the removal of such sign or its sign structure or both in accordance with the procedures set forth in section 26-127.3 of this code for the abatement of a nuisance and any such sign and its sign structure is hereby declared to be a public nuisance pursuant thereto. All of the provisions of section 26-127.3 shall apply to the removal of a sign pursuant to this section except that a sign under the control of an unregistered outdoor advertising company may be removed whether or not it is in compliance with the zoning resolution, the administrative code or rules adopted pursuant thereto, and irrespective of whether it has a surface area greater than one hundred fifty square feet.

e. Notwithstanding any other provision of law to the contrary, an outdoor advertising company, or any affiliate thereof, that has been found guilty of a misdemeanor or liable for a civil penalty pursuant to subdivision b of this section or whose registration has been revoked pursuant to subdivision d of section 26-260 of this code shall be considered ineligible for the award of any city franchise or concession, and shall be prohibited from administering

any advertising program on behalf of a city franchisee or concessionaire, for a period of five years following judgment or decision.

§26-263 Investigations. - The department may investigate any matter within the jurisdiction conferred by this article and shall have full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation. The department of investigation may, at the request of the commissioner, assist the department in any investigation conducted pursuant to this section.

****Local Law 14-2001.**