

NEW YORK CITY CHARTER

CHAPTER 19

FIRE DEPARTMENT

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§ 481 **Department; commissioner.** There shall be a fire department the head of which shall be the commissioner.

HISTORICAL NOTE

Section added L.L. 1962

§ 482 **Chief may be designated as commissioner.** The mayor may designate the chief of the fire department to serve as commissioner, and in such case he shall exercise the powers and duties of commissioner and shall continue to exercise his powers and duties as chief and shall receive the salary of the commissioner. While serving as commissioner the chief shall forfeit none of his pension rights and privileges as chief or his civil service status, and such service and the time during which he so serves shall be part of his time and service as chief. Such designation as commissioner shall be in writing filed in the office of the department and in the office of the mayor.

HISTORICAL NOTE

Section added L.L. 1962

§ 483 **Deputies.** The commissioner may appoint three deputies, one of whom may perform all the duties and exercise all of the powers of the commissioner except appointment or promotion, detail or dismissal of any member of the uniformed force when thereunto authorized by instrument in writing to be filed in the offices of the mayor and the comptroller.

HISTORICAL NOTE

Section amended by L.L. 1947, No. 8
Section added L.L. 1962

§ 484 **Designation of officers to act.** The commissioner may designate a clerk or chief of a bureau, who shall have power, when thereunto authorized by the commissioner by instrument in writing to be filed in the offices of the mayor and comptroller, to sign warrants and perform such other duties incidental thereto as may be required during the absence of the commissioner, and for a period of time to be designated in the instrument.

HISTORICAL NOTE

Section added L.L. 1962

§ 485 **Seal.** The commissioner may adopt a seal for the department and direct its use.

HISTORICAL NOTE

Section added L.L. 1962

§ 486 **Treasurer.** The commissioner shall be the treasurer of the department and shall file in the office of the comptroller a bond for the faithful performance of his duties as such treasurer.

HISTORICAL NOTE

Section added L.L. 1962

§ 487 **Powers.** a. The commissioner shall have sole and exclusive power and perform all duties for the government, discipline, management, maintenance and direction of the fire department and the premises and property in the custody thereof, however, the commissioner shall provide written notice with supporting documentation at least forty-five days prior to the permanent closing of any firehouse or the permanent removal or relocation of any fire fighting unit to the council members, community boards and borough presidents whose districts are served by such facility or unit and the chairperson of the council's public safety committee. For purposes of this section, the term "permanent" shall mean a time period in excess of six months. In the event that the permanent closing of any firehouse or the permanent removal or relocation of any fire fighting unit does not occur within four months of the date of the written notice, the commissioner shall issue another written notice with supporting documentation prior to such permanent removal or relocation. The four months during which the written notice is effective shall be tolled for any period in which a restraining order or injunction prohibiting the closing of such noticed facility or unit shall be in effect.

b. The department shall have sole and exclusive power and authority to extinguish fires at any place within the jurisdiction of the city and shall have power and authority to extinguish fires upon any vessel in the port of New York or upon any dock, wharf, pier, warehouse or other structure bordering upon or adjacent to such port.

c. The commissioner shall have power to cause any vessel moored to or anchored near any dock or pier in the city to be removed to and secured at such place in the harbor as shall be designated by the commissioner, provided that such vessel shall be on fire or in danger of catching fire or may be, by reason of its condition or the nature of its cargo, a fire menace to shipping, to property or to the water front of the city.

d. The commissioner shall have sole and exclusive jurisdiction over the approval of the installation of all containers for combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures, except storage tanks and auxiliary storage tanks for oil-burning equipment and except where the location of the container may affect the structural condition of the building, in which case the commissioner shall not give his approval without the approval of the commissioner of buildings. The commissioner shall certify his approval of all installations of containers in buildings except storage tanks and auxiliary storage tanks for oil-burning equipment to the commissioner of buildings.

e. The commissioner shall have the sole and exclusive power from time to time to designate and fix the location of all fire alarm telegraph, signal and alarm stations in the city, and shall have access to and control of the same for the purpose of the department.

f. The department shall have the power and authority to provide general ambulance services, emergency medical services and other response services necessary to preserve public health, safety and welfare, and to perform any functions relating to the provision

of such services. This subdivision shall not be construed to limit or impair the powers of any other agency established pursuant to this charter.

HISTORICAL NOTE

Section amended by L.L. 1959, No. 24.
 Subd. a amended L.L. 21/88 § 1.
 Section added L.L. 1962.
 Subd. a amended by L.L. 1989, No. 40, § 1.
 Subd. f added L.L. 20/1996 § 1, eff. Feb. 26, 1996.

CASE NOTES

¶ 1. A regulation of the Fire Department which prohibited members from permitting the use of their names and photographs in connection with any article or advertisement in any magazine or newspaper without the written approval of the chief of the Department and a directive which instructed the plaintiff as President of the Firemen's Association to make no statements concerning members of the Association were constitutional. However, the directive was arbitrary, unreasonable and in violation of Civil Rights Law § 15.—*Kane v. Walsh*, 295 N. Y. 198, 66 N. E. 2d 53 [1946].

¶ 2. The power of the Fire Commissioner to order the installation of an automatic sprinkler system in a nursing home is not affected by the provisions of the Hospital Code, nor by the fact that a certificate of occupancy had been issued.—*Matter of Aron Manor Nursing Home*, 35 Misc. 2d 1044, 231 N. Y. S. 2d 952 [1962].

¶ 3. Award of arbitrator enjoining the use of civilian inspection employees in fire department districts would not be overturned when it was not contrary to law and this section does not declare a public policy which can not be waived and which had been waived by the city.—*City of N. Y. v. Uniformed Firefighters Asso. Local 94*, 58 N. Y. 2d 957 [1983].

¶ 4. In extinguishing a fire in an abandoned vehicle on a NYC street negligence was claimed for failing to establish "fire lines" and failure to properly park the fire engine. There was no evidence of immutable procedures at a fire scene. It was a matter of professional judgment. *Kenavan v. City of NY*, 70 N. Y. 2d 558 [1987].

¶ 5. Pursuant to § 487 the Fire Commissioner sent notices to City Council members and other persons that several fire stations would be closed approximately two months later. The "supporting documentation" requirement of § 487(a) was deemed met because the notice included basic reasons for closing, namely budgetary considerations and explanation as to why responsibilities of closing units could be borne by other units as well as other general information supporting those reasons. "Supporting documentation" is nowhere defined and it is the intent of this section to allow adequate time and information for the City Council and others to respond to contemplated closings. *Brower v. Koch*, 175 AD2d 84, 572 N.Y.S.2d 329 [1991].

¶ 6. The Fire Commissioner, pursuant to NYC Charter §487, is vested with the "sole and exclusive power" with respect to the "government, discipline, management, maintenance and direction of the Fire Department and the premises and property thereof". This case involves restraining the implementation by the Fire Department of a pilot program reducing minimum staffing levels for fire alarm dispatchers at all NYC borough fire headquarters. The issues under consideration are ones the court is likely not to consider because there is no evidence to doubt the good faith of the Fire Department. The remedy sought, to mandate certain staffing levels of FADs, does not lie because Fire Department's responsibility involves the exercise of discretion by its Commissioner, under the NYC Charter, and not the performance of an act required by law. *Matter of Pedalino v. Giuliani*, 165 Misc. 2d 324, 629 N.Y.S.2d 643 [1995].

¶ 7. Under this section, the Fire Commissioner has the exclusive power to perform all duties concerning discipline of members of the Fire Department. See further discussion of this case under note 18. *Admin. Code §15-113. Von Essen v. New York City Civil Service Commission*, 4 NY3d 220, 791 N.Y.S.2d 887, 825 N.E.2d 128 (2005).

§ 488 **Enforcement of fire laws.** The commissioner shall have the power and it shall be his duty to enforce all laws and the rules and regulations of the board of standards and appeals in respect to:

1. The manufacture, storage, sale, transportation or use of combustibles, chemicals, explosives, inflammable or other dangerous substances, articles, compounds or mixtures.
2. The investigation of the cause, circumstances and origin of fires and the suppression of arson.
3. The prevention of fires or danger to life or property therefrom, excluding provisions relating to structural conditions and excluding provisions relating to the installation of oil-burning equipment and all appurtenances thereof.

The powers conferred by this section shall not extend to the enforcement of any provision of the health code or the regulations of the board of health, or of any provision of the building code relating to the construction or alteration of buildings or the installa-

tion of service equipment, except as otherwise provided therein, or interfere in any manner with the powers and duties of the board of health or the chairman of the board of health or of the department of buildings or of the commissioner of buildings.

HISTORICAL NOTE

Section amended by L.L. 1959, No. 24.
 Section amended by L.L. 1967, No. 58.
 Section amended by L.L. 1967, No. 127.
 Section amended by L.L. 1968, No. 76.
 Closing paragraph amended by L.L. 1969, No. 74.

§ 489 Regulation of combustibles, etc. The commissioner may make and enforce rules and regulations for the manufacture, storage, sale, transportation or use of combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures.

HISTORICAL NOTE

Section added L.L. 1962

CASE NOTES

¶ 1. Sections C19-57.0(b), C19-53.0(c)(5), C19-152.0(b) N. Y. C. Ad Code and § 489 N. Y. C. Charter which prohibit transp. of flammable liquid shipments passing through N. Y. C. without a pickup or final delivery point within city limits during morning and afternoon rush hour periods do not violate the commerce clause of the U. S. Const. (Art. I, § 8, cl. 3).—*People v. Dempsey & Miron*, 120 Misc. 2d 1035 [1983].

§ 490 Powers of inspection of the commissioner. a. The commissioner is empowered to:

(1) Cause any building, structure, tunnel, enclosure, vessel, place or premises to be inspected for fire hazards by any officer or employee of the department designated for such purpose.

(2) Inspect and test any automatic or other fire alarm system or fire extinguishing equipment.

b. Whenever in any investigation or inspection carried on by the department a condition is found which in the opinion of the commissioner should be referred to any other department, he shall promptly make such reference in writing.

HISTORICAL NOTE

Section added L.L. 1962

CASE NOTES

¶ 1. The Fire Commissioner was empowered to order the installation of a sprinkling system in a building used for the storage, manufacture and processing of paper though a certificate of occupancy had previously been issued.—*In re Empire Distributors*, 135 N. Y. S. 2d 836 [1954].

¶ 2. Provision of section providing for inspection of “any building, structure, tunnel, enclosure, vessel, place or premises” for fire hazards is constitutional and not violative of the Fourth Amendment since statute must be construed to permit inspection only after obtaining a warrant authorizing the inspection.—*Gottlieb v. Criminal Court of City of N. Y.*, 172 (12) N. Y. L. J. (7-17-74) 2, Col. 4 T.

§ 491 Orders of the commissioner; enforcement. a. The commissioner shall have the power and it shall be his duty:

(1) To order in writing the remedying of any condition in violation of any rule or regulation or any provision of law which he is empowered to enforce.

(2) To cause any order of the commissioner which is not complied with within the time fixed in the order for such compliance to be enforced and to take proceedings for the enforcement thereof as may be provided by law.

b. Every order, requirement, decision or determination of the commissioner shall be in writing. The commissioner shall not vary from or take any proceeding or issue any or-

der contrary to the Labor Law, the Multiple Dwelling Law, the building code or any other provision of law or any rule or decision of the board of standards and appeals.

HISTORICAL NOTE

Section added L.L. 1962

CASE NOTES

¶ 1. The Fire Commissioner was empowered to order the installation of a sprinkling system in a building used for the storage, manufacture and processing of paper though a certificate of occupancy had previously been issued.—*In re Empire Distributors*, 135 N. Y. S. 2d 836 [1954].

¶ 2. The Fire Commissioner was empowered to order the repair or restoration of an existing standpipe system where certain parts were broken or missing and where no reconstruction of the building itself was required.—*People v. Dry Dock Corlears Properties*, 288 N. Y. 305, 43 N. E. 2d 55 [1942].

¶ 3. The Fire Commissioner has power to order the installation of an automatic sprinkler system in premises used for a nursing home and housing 118 bedridden patients. Such installation is not a structural change of a nature which would fall exclusively within the domain of another City department. The expense involved in the installation furnished no constitutional obstacle to the enforcement of the Commissioner's order.—*Matter of Aron Manor Nursing Home*, 35 Misc. 2d 1044, 231 N. Y. S. 952 [1962].

¶ 4. Because department stores have an affirmative obligation under §§ C19-161.0 and § 487e-2.0 of the Administrative Code to place interior fire alarms on their premises and keep them in proper working order, it is not required that an order of the fire department specify the defects then existing in the alarm system in order for a criminal prosecution to be maintained for violation of the order and this section does not require that the department order refer to a specific condition to be rectified.—*People v. Morenberg*, 107 Misc. 2d 711 [1980].

§ 492 **Right of entry of officers of the department.** The commissioner and his deputies and such other officers or employees of the department as are authorized by the commissioner may without fee or hindrance enter and inspect all vessels, premises, grounds, structures, buildings and every part thereof and all underground passages of every sort in the city or in the port of New York for compliance with the provisions of law or rules and regulations enforced by the department. Any refusal to permit such entry or inspection shall be triable by a judge of the New York city criminal court and punishable by not more than thirty days' imprisonment, or by a fine of not more than fifty dollars, or both.

HISTORICAL NOTE

Section amended by L.L. 1969, No. 74.
Section added L.L. 1962.

§ 493 **Member of department; no other office.** [Became § 1130.]

§ 494 **Duties of chief; restriction.** Notwithstanding any inconsistent provision of any general, special or local law, or rule or regulation, a chief of the fire department shall not serve in any other capacity to the department during his term of office of chief. Any person violating the provisions of this section shall be deemed to have vacated the office of chief so held.

HISTORICAL NOTE

Section added by L.L. 1978, ch. 652.

CHAPTER 7

THE NEW YORK CITY BUILDING CODE*

Article 701 Enactment and Update of the New York City Building Code

ARTICLE 701

ENACTMENT AND UPDATE OF THE NEW YORK CITY BUILDING CODE

§ 28-701.1 Update.

§ 28-701.2 Enactment of the New York city building code.

§ 28-701.1 **Update.** No later than the third year after the effective date of the section 701.1 and every third year thereafter, the commissioner shall submit to the city council proposed amendments that he or she determines should be made to this code to bring it up to date with the latest edition of the International Building Code or otherwise modify the provisions thereof. In addition, prior to the submission of such proposal to the city council, such proposal shall be submitted to an advisory committee established by the commissioner pursuant to this title for review and comment.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

§ 28-701.2** **Enactment of the New York City Building Code.** The *New York City Building Code* based on the 2003 edition of the International Building Code published by the international Code Council, with changes that reflect the unique character of the city, is hereby adopted to read as follows:

* Chapter 7 repealed and added L.L. 33/2007 §§ 15, 16 eff. July 1, 2008. Former Chapter 7 added L.L. 99/2005 § 1 never took effect.

** Section added L.L. 33/2007 § 16, eff. July 1, 2008.

NEW YORK CITY BUILDING CODE (IN PART)

- Chapter 1 Administration**
2 Definitions
3 Use and Occupancy Classification
4 Special Detailed Requirements Based on Use and Occupancy
5 General Building Heights and Areas; Separation of Occupancies
6 Types of Construction
7 Fire-Resistance-Rated Construction
8 Interior Finishes
9 Fire Protection Systems
10 Means of Egress
11 Accessibility
12 Interior Environment
13 Energy Efficiency
14 Exterior Walls
15 Roof Assemblies and Rooftop Structures
16 Structural Design
17 Structural Tests and Special Inspections
-
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CHAPTER 1

ADMINISTRATION

- Section BC 101 General
- BC 102 Applicability
- BC 103 Department of buildings
- BC 104 Duties and powers of commissioner of buildings
- BC 105 Permits
- BC 106 Construction documents
- BC 107 Temporary structures and uses
- BC 108 Fees
- BC 109 Inspections
- BC 110 Certificate of occupancy
- BC 111 Service Utilities
- BC 112 Reserved
- BC 113 Violations
- BC 114 Stop work order
- BC 115 Unsafe structures and equipment

SECTION BC 101

GENERAL

101.1 **Title.** This code shall be known and may be cited as the “New York City Building Code,” “NYCBC” or “BC”. All section numbers in this code shall be deemed to be preceded by the designation “BC”.

101.2 **Scope.** The provisions of this code shall apply to the construction, alteration, movement, addition, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

101.3 **Intent.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

101.4 **Referenced codes.** The other codes listed in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 **Electrical.** The provisions of the *New York City Electrical Code* shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

101.4.2 **Gas.** The provisions of the *New York City Fuel Gas Code* shall apply to the installation of gas piping, gas appliances and related accessories as covered in this code. These requirements apply to gas piping systems extending to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

101.4.3 **Mechanical.** The provisions of the *New York City Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.4.4 **Plumbing.** The provisions of the *New York City Plumbing Code* shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.5 **Fire prevention.** The provisions of the *New York City Fire Code* shall apply to:

1. The manufacturing, storage, handling, use, sale and transportation of hazardous materials, except for the installation of storage tanks and auxiliary storage tanks for oil-burning equipment;
2. The design, installation, operation and maintenance of devices, equipment and systems designed to prevent, mitigate, control and extinguish fire, explosions or other life safety hazards;
3. Emergency preparedness and planning, including the orderly evacuation of occupants of a building, structure or premises in the event of fire, explosion, biological, chemical or hazardous material incident or release, natural disaster or other emergency, or the threat thereof;
4. The prevention, mitigation and control of hazards to firefighters and emergency responders during emergency operations; and
5. The operation and maintenance of any manual, automatic or other fire alarm or fire extinguishing device, equipment or system.

101.4.6 **Energy.** The provisions of the *Energy Conservation Construction Code* of New York State shall apply to all matters governing the design and construction of buildings for energy efficiency.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.
101.4.5 amended Int. No. 732-A of 2008 § 6, passed City Council May 28, 2008,
eff. July 1, 2008 and upon approval of the Mayor,

SECTION BC 102

APPLICABILITY

102.1 **General.** Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

102.2 **Reserved.**

102.3 **Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.4 **Referenced standards.** The standards referenced in this code and in the rules of the department shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced standards, the provisions of this code shall apply. Refer to Article 103 of Chapter 1 of Title 28 of the *Administrative Code* for additional provisions relating to referenced standards.

102.5 **Partial invalidity.** In the event that any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

102.6 **Existing structures.** The legal occupancy of any existing structure shall be permitted to continue without change, except as is otherwise specifically provided or as is deemed necessary by the commissioner for the general safety and welfare of the occupants and the public. Refer to Chapter 1 of Title 28 of the *Administrative Code* for additional provisions relating to existing structures.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 103

DEPARTMENT OF BUILDINGS

103.1 **General.** Refer to the New York City Charter and Chapter 1 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 104

DUTIES AND POWERS OF COMMISSIONER OF BUILDINGS

104.1 **General.** The commissioner shall have the authority to render interpretations and to adopt rules establishing policies, and procedures to clarify and implement the provisions of this code. Such interpretations and rules shall be in compliance with the intent and purpose of this code. Refer to the New York City Charter and Chapter 1 of Title 28 of the *Administrative Code* for additional provisions relating to the authority of the Commissioner of Buildings.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 105

PERMITS

105.1 **General.** Permits shall comply with this section, with Article 105 of Chapter 1 of Title 28 of the *Administrative Code*, and with requirements found elsewhere in this code.

105.2 **Required.** Any owner or authorized agent who intends to construct, add to, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, add to, alter, repair, remove, convert or replace any gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application for construction document approval in accordance with Chapter 1 of Title 28 of the *Administrative Code* and this chapter and obtain the required permit.

105.3 **Work exempt from permit.** Exemptions from permit requirements of this code as authorized in Chapter 1 of Title 28 of the *Administrative Code* and the rules of the department shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or rules.

105.4 **Validity of permit.** The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other law. Permits presuming to give authority to violate or cancel the provisions of this code or other law shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the commissioner from requiring the correction of errors in the construction documents and other data. The commissioner is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other law.

105.5 **Foundation and earthwork permits.** In addition to the requirements of Chapter 1 of Title 28 of the *Administrative Code* and Chapter 33 of this code, applications for foundation and earthwork permits shall include:

1. Notice to adjoining owners. Proof of notice to adjoining owners as required by Section 3304.3.2.

2. Liens. Satisfactory evidence that the property is free from any lien for unpaid city taxes, assessments, water rates, bail bonds, or judgments obtained by the city, together with consent in writing of the mortgagee, if there is a mortgage upon the property, and the consent in writing of the surrogate's court or supreme court, if the owner of the property is a minor or incompetent.

105.5.1 **Notice to the department of commencement of foundation and earthwork.** The foundation and earthwork permit shall be issued on the condition that the applicant will provide written notice to the department at least 24 but no more than 48 hours prior to the commencement of the foundation or earthwork as required by Section 3304.3.1.

105.6 **Full demolition permits.** In addition to the requirements of Chapter 1 of Title 28 of the *Administrative Code* and Chapter 33 of this code, applications for full demolition permits shall include:

1. Utility certifications. Certifications by the respective utility companies or governmental agencies having jurisdiction that all gas, electric, water, steam and other service lines to the building have been disconnected as required by Section 3306.9.1.

2. Notice to adjoining owners. Proof of notice to adjoining owners as required by Section 3306.3.2.

3. Certification of rodent extermination. Certification in accordance with department rules that the building has been treated effectively for rodent extermination as required by Section 3306.9.13.

105.6.1 **Notice to department of commencement of demolition work.** The full demolition permit shall be issued on the condition that the applicant will provide written notice to the department at least 48 hours prior to the commencement of demolition work.

105.7 **Sign permits.** In addition to the requirements of Chapter 1 of Title 28, permits for the erection, alteration or installation of signs shall be subject to the special provisions set forth in Sections 105.7.1 through 105.7.5.

105.7.1 **Identification number.** Every sign permit shall have an identification number.

105.7.2 **Changing copy or structural change of sign or sign structure.** The changing of copy on a sign not permitted for changeable copy or any structural change of the sign or sign structure shall require a new permit pursuant to this code.

105.7.3 **Permit does not constitute authorization for illegal sign.** The issuance of a permit for the erection, alteration or installation of a sign or sign structure issued pursuant to this code shall not be deemed to constitute permission or authorization to maintain a sign that would otherwise be illegal without a maintenance permit for an outdoor sign if required pursuant to this code and department rule or that is otherwise illegal pursuant to any other provision of law nor shall any permit issued hereunder constitute a defense in an action or proceeding with respect to such an unlawful sign.

105.7.4 **Name and business address of licensed sign hanger.** The application shall contain the name and business address of the licensed sign hanger who is to perform or supervise the proposed work.

105.7.5 **Outdoor advertising company.** If the sign or sign location is under the control of an outdoor advertising company, as defined in Chapter 5 of Title 28 of the *Administrative Code*, the application shall be accompanied by the name and, where provided by rule, the registration number of such outdoor advertising company.

105.8 **Temporary construction equipment permits.** In addition to the requirements of Chapter 1 of Title 28, permits for the erection, installation and use of temporary construction equipment shall be subject to the special provisions set forth in Sections 105.8.1 through 105.8.3.

105.8.1 **Application.** The need for each specific item of construction equipment shall be stated on the application.

105.8.2 **Term of permit.** Notwithstanding any other provision of this code, the term of a construction equipment permit shall be one year, or the expiration of the contractor's insurance or the street obstruction bond, if such time period is less than one year and shall be renewable. The permit must be in effect at all times during which the equipment is at the work site.

105.8.3 **Special provisions for renewal of permit for a sidewalk shed.** An application for the renewal of a construction equipment permit for a sidewalk shed used in connection with the alteration of a building shall be accompanied by a report, acceptable to the department, prepared by a registered design professional who has examined that part of the premises on which the work requiring the use of a sidewalk shed is being performed. Such report shall document the condition of the applicable part of the premises and the scope of work that has been performed thereon since the issuance of the permit and shall provide an estimate of the additional time needed to complete the work.

105.9 **Mandatory sewer and catch basin work required by Section 24-526 of the Administrative Code.** In addition to the requirements of Chapter 1 of Title 28, an applicant for a permit who is required pursuant to Section 24-526 of the *Administrative Code* to construct or repair defects in sewers or catch basins that lie outside the property shall submit certification from the Department

of Environmental Protection that the applicant or owner has provided the Department of Environmental Protection with:

1. A performance bond or other security satisfactory to the Department of Environmental Protection and approved as to form by the Law Department for the full cost, as estimated by the Department of Environmental Protection, of constructing the part of the storm water drainage system for such property which shall lie outside the property line and repairing defects in such construction, if and as required by Section 24-526 of the *Administrative Code*;

2. Any license or other written instrument that the Department of Environmental Protection or the Law Department may reasonably request that gives the Department of Environmental Protection, its agents and contractors and the surety for a performance bond described in Item 1 above the legal right to enter private property to perform the work described in Item 1 above, pursuant to the terms of the performance bond or in accordance with the conditions of acceptance of other security described in Item 1 above, and the legal right to connect to, to extend or to discharge storm water into any private sewer authorized as a point of disposal pursuant to Section 24-526 of the *Administrative Code*, in the event that the owner of property fails to do so, if and as required pursuant to Section 24-526 of the *Administrative Code*;

3. Insurance of a kind and in an amount that the Department of Environmental Protection and the Law Department deem satisfactory to insure the city fully for all risks of loss, damage to property or injury to or death of persons to whomever occurring, arising out of or in connection with the performance of all work described in this section.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 106

CONSTRUCTION DOCUMENTS

106.1 **General.** Construction documents shall comply with Chapter 1 of Title 28 of the *Administrative Code*, this section and other applicable provisions of this code and its referenced standards.

106.2 **Required construction documents.** In addition to the requirements of Chapter 1 of Title 28 of the *Administrative Code*, the applicant shall submit any and all of the documents specified in Sections 106.3 through 106.15 as appropriate to the nature and extent of the work proposed.

106.2.1 **Composite plans.** Composite plans showing architectural, structural, and mechanical parts of a building may be submitted provided that a clear understanding of each part is not impaired.

106.2.2 **Multiple building developments.** The same set of plans may be used for several buildings of the same construction, if such buildings are located on adjoining lots under the same ownership, and if applications for construction document approval for the lots are filed simultaneously.

106.3 **Lot diagram.** The lot diagram shall show compliance with the New York City Zoning Resolution, indicating: the size, height, and location of the proposed construction including parking and curb cuts; all existing structures on the zoning lot and their distances from lot and street lines; the established grade

and existing curb elevations; and the proposed final grade elevations of the site shown by contours or spot grades at reasonable intervals. The lot diagram shall be drawn in accordance with an accurate boundary survey to the city datum, made by a land surveyor, which shall be attached to and form part of the application. A complete zoning analysis shall accompany the lot diagram with citation to the relevant sections of the *New York City Zoning Resolution*.

106.4 Building classification statement. The statement shall identify:

1. The occupancy group or groups that apply to parts of the building in accordance with Section 302;
2. The occupancy group of the main use or dominant occupancy of the building;
3. The construction class of the building in accordance with Section 602;
4. The Structural Occupancy Category in accordance with Table 1604.5;
5. The height of the building as defined in Section 502.1;
6. The applicable measurements to the highest and lowest level of Fire Department access;
7. Whether the building is inside or outside of the fire districts; and
8. For multiple dwellings, the multiple dwelling classification as established by the *New York State Multiple Dwelling Law*.

106.5 Means of egress plans. Floor and roof plans shall show compliance with the requirements of Chapter 10, with sufficient notations indicating egress features and complete egress analysis as required by this code.

106.6 Architectural plans. Construction documents for all buildings shall provide detailed drawings of all architectural elements of the building showing compliance with the code, including but not limited to doors, windows and interior finish schedules, and other details necessary to substantiate all required fire-protection characteristics, as well as other details demonstrating compliance with the accessibility requirements of this code. Site safety features shall be shown where applicable. Plans shall also provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

Exception: Where a curtain wall system is to be employed containing elements that are normally detailed on shop or working drawings, approval of construction documents shall be conditioned upon deferred submittal of such shop or working drawings showing the approval of the registered design professional who prepared the architectural construction documents, or of a signed statement by such registered design professional that such drawings were prepared to his or her satisfaction. In such cases, submittal of construction documents showing compliance with the *Energy Conservation Construction Code of New York State* related to such curtain wall may also be deferred.

106.7 Structural plans. Structural plans shall include the data and information described in this section and in Chapter 16.

Exceptions:

1. Where structural elements are normally detailed on shop or working drawings, approval of construction documents shall be conditioned upon deferred submittal of such shop or working drawings showing the approval of the registered design professional who prepared the structural construction documents, or of a signed statement by such registered design professional that such drawings were prepared to his or her satisfaction.

2. In cases where the detailing of structural elements has been made on the basis of fire-resistance ratings, load tables, or similar data as given in manufacturer's catalogues, approval of construction documents shall be conditional upon submission of a manufacturer's designation attesting to the accuracy of the data and indicating that such data were derived in conformance with the provisions of this code. Where the detailing of structural elements has been made on the basis of data published in technical documents of recognized authority issued or accredited by the agency or association promulgating the applicable referenced standard, such manufacturer's designation will not be required.

106.7.1 Foundation plans. Foundation plans shall show compliance with the requirements of Chapter 18 of this code regarding foundation design and shall show the plan locations, design elevations of the bottoms, and details as to sizes, reinforcements, and construction of all footings, piers, foundation walls, pile groups, and pile caps. The levels of footings of adjacent structures shall be indicated or, if the adjacent structures are pile supported, this shall be stated. Where applicable, the plans shall include underpinning details. In addition, there shall be a statement indicating the character and minimum class of the soil strata required for the support of the foundation; the allowable soil pressure used for the design of footings; and the character, class, and presumptive bearing capacity of the bearing stratum to which piling is required to penetrate. The types and design capacities of piling and the records of required borings or test pits shall also be shown.

106.7.2 Floor plans. Floor plans and sections showing all structural requirements shall be provided for all levels.

106.7.3 Detailed drawings. Drawings shall show sizes, sections, and locations of members, and such other information as may be required to indicate clearly all structural elements and special structural engineering features.

106.7.4 Column schedules. Column schedules shall show the design load contributed by the framing at any level and the total accumulated design load at each level.

106.7.5 Truss forces. Where trusses are employed, a diagram or table shall indicate the loads or moments in the various members under the design loading conditions. The requirement for a diagram or table may be waived when the trusses consist of elements selected from load tables or similar data, subject to the requirements for verification described in this code.

106.7.6 Prestressing forces. Where prestressed members are employed, a schedule or table shall show the total prestressing forces and the method and sequence of application.

106.8 Excavation and earthwork plans. Where the application is sought solely for earthwork excavation or fill operations, the applicant shall submit 1) a lot diagram and 2) plans showing the exact location, extent, and depth or height of the proposed excavation or fill operation and any protective railings or equipment required by Chapter 33

106.9 Fire protection system plans. Construction documents for fire protection systems shall include a plot plan to scale indicating the location of the system in relation to the rest of the building and shall comply with Sections 106.14.1 through 106.14.4. Such plans shall not be required in connection with applications for limited standpipe alterations and limited sprinkler alterations.

106.9.1 **Sprinkler systems.** Sprinkler systems plans shall comply with Section 903.1.2.

106.9.2 **Alternative automatic fire-extinguishing systems.** Alternative automatic fire-extinguishing systems plans shall comply with Section 904.1.1.

106.9.3 **Standpipe systems.** Standpipe systems plans shall comply with Section 905.1.1.

106.9.4 **Fire alarm and detection systems.** Fire alarm and detection systems plans shall comply with Section 907.1.1.

106.10 **Sign installation plans.** Construction documents for signs applications shall comply with Section H105.2 in Appendix H.

106.11 **Sewer adequacy verification for increases in impervious surfaces.** Whenever an alteration increases impervious surfaces on the lot to greater than 20 percent of the impervious surfaces existing when the structure was constructed, the applicant shall submit a house/site connection application approved or accepted by the Department of Environmental Protection as to the availability of a public sewer system, as well as an evaluation of the adequacy of any existing system for the disposal of storm water by any means other than storm or combined sewers.

Exception: Where the total area of impervious surfaces proposed to be increased after the effective date of this code is less than or equal to 1,000 square feet (93 m²).

106.12 **Pre-demolition photographs.** In addition to the requirements of Section 3306.3, construction documents for full demolition shall comply with the following requirements for archival photographs:

1. Number required. Applications shall contain two sets of photographs of the building or buildings to be demolished or removed. Both sets shall be received by the department on behalf of the New York City Landmarks Preservation Commission and the New York City Municipal Archives Division of the Department of Records and Information Services.

2. Format. The photographs shall conform to the standards and specifications established by rules promulgated by the commissioner upon the advice of the commissioner of the Department of Records and Information Services and the chairperson of the Landmarks Preservation Commission.

Exceptions: Applications made on behalf of the Department of Housing Preservation and Development or made pursuant to Article 215 of chapter 2 of title 28 of the *Administrative Code* are exempt from the requirements of this section.

106.13 **Energy efficiency.** Construction documents shall include a statement by the registered design professional of record that: “To the best of my knowledge, belief and professional judgment, these plans and specifications are in compliance with the *Energy Conservation Construction Code of New York State*.” In addition, the following requirements shall apply:

1. A lead energy professional shall be identified for each project, who shall draw the relevant information regarding envelope, mechanical systems, service water heating system and lighting and power systems from construction documents into an energy analysis. The energy analysis shall balance total energy consumption of all systems in accordance with the *Energy Conservation Construction Code of New York State* and shall be signed and sealed by the lead energy professional.

2. The format for the energy analysis shall be as established in the *Energy*

Conservation Construction Code of New York State, or as approved by the department, and shall comprise a sheet within the drawing set. Supporting documentation shall be available within the drawing set or upon request of the department.

106.14 **Mechanical and fuel gas plans.** Construction documents for gas piping, heating, ventilation, refrigeration and other mechanical work to be performed shall be submitted as per *New York City Mechanical and Fuel Gas Codes*.

106.15 **Plumbing plans.** Construction documents for plumbing work to be performed shall be submitted as per the *New York City Plumbing Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.
106.4 item 2 amended L.L. 8/2008 § 66, eff. July 1, 2008.
106.4 item 4 amended L.L. 8/2008 § 66, eff. July 1, 2008.
106.11 amended L.L. 8/2008 § 67, eff. July 1, 2008.
106.15 repealed and added L.L. 8/2008 § 68, eff. July 1, 2008.

SECTION BC 107

TEMPORARY STRUCTURES AND USES

107.1 **General.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 108

FEEES

108.1 **Payment of fees.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 109

INSPECTIONS

109.1 **General.** Except as otherwise specifically provided, inspections required by this code or by the department during the progress of work may be performed on behalf of the owner by approved inspection agencies or, if applicable, by special inspectors. However, in the interest of public safety, the commissioner may direct that any of such inspections be performed by the department. All inspections shall be performed at the sole cost and expense of the owner. Refer to Chapter 1 of Title 28 of the *Administrative Code* for additional provisions relating to inspections.

109.2 **Preliminary inspection.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

109.3 **Required progress inspections.** The inspections set forth in Sections 109.3.1 through 109.3.8 shall be made during the progress of work to verify substantial compliance with the code and with approved construction documents

109.3.1 **Footing and foundation inspection.** Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

109.3.2 **Lowest floor elevation.** In areas of special flood hazard, upon placement of the lowest floor, including the basement (for flood zone purposes), and prior to further vertical construction, the elevation inspection report required in Item 1 of Section G105.3 of Appendix G shall be submitted to the department.

109.3.3 **Frame inspection.** Framing inspections shall be performed to determine compliance with the approved construction documents.

Exception: Work regulated and inspected under Chapter 17.

109.3.4 **Fire resistance rated construction inspection.** Fire resistance rated construction shall be inspected to determine compliance with the approved construction documents, including inspection of the following work:

1. Fire resistance rated partitions, floors, ceilings, shafts;
2. Fire blocking of concealed spaces;
3. Through-penetration firestopping, draftstopping and fireblocking;
4. Fire dampers;
5. Fire shutters; and
6. Protection of structural members.

Exception: Work regulated and inspected under Chapter 17.

109.3.5 **Energy code compliance inspections.** Inspections shall be made to determine compliance with approved construction documents.

109.3.6 **Other inspections.** In addition to the inspections specified above, the commissioner is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department.

109.4 **Special inspections.** Special inspections required by this code or by the commissioner shall be performed by special inspectors.

109.5 **Final inspection.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

109.6 **Issuance of Certificate of compliance.** Upon satisfactory inspection of service equipment and the project satisfied all the requirements for sign-off, the department shall issue certificate of compliance as applicable for the following service equipment:

1. Elevators;
2. Escalators;
3. Moving walkways;
4. Heating systems; and
5. Dumbwaiters.

109.7 **Inspection agencies.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

109.8 **Inspection requests.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

109.9 **Satisfactory inspection report required.** Portions of work requiring inspection may be sequenced or phased to allow continuing progress of that work provided that work shall not be done beyond the point indicated in each successive required inspection for that phase. The inspector shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or the superintendent of construction wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until corrected. The person performing the inspection shall complete a report of satisfactory inspection. Refer to Chapter 1 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 110

CERTIFICATE OF OCCUPANCY

110.1 **General.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 111

SERVICE UTILITIES

111.1 **General.** Refer to Chapter 1 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 112

RESERVED

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 113

VIOLATIONS

113.1 **General.** Refer to Chapter 2 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 114
STOP WORK ORDER

114.1 **General.** Refer to Chapter 2 of Title 28 of the *Administrative Code*..

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.

SECTION BC 115
UNSAFE STRUCTURES AND EQUIPMENT

115.1 **General.** Refer to Chapter 2 and Chapter 3 of Title 28 of the *Administrative Code*.

HISTORICAL NOTE

Section added L.L. 33/2007 § 16, eff. July 1, 2008.