

**ARTICLE 3. ADMINISTRATION**  
**Sub-Article 1. General Administrative Provisions**

**GROUP 1**

**Application for Permits**

**(2.1.1.1). §C26-161.0 Permits for Construction or Alteration.-**

- a. Before the construction or alteration of any structure, or any part of a structure, shall be commenced and before construction or alteration of the plumbing of any structure or premises shall be commenced, the owner, or the registered architect or licensed professional engineer employed by the owner, shall submit to the superintendent a statement in triplicate, on appropriate blanks furnished by the superintendent, describing the proposed work, and such computations, plans, and detail drawings as the superintendent may require. Such statement shall constitute an application for a permit. Such statement shall be accompanied by a further signed statement giving the full name and residence of each of the owners of the structure, proposed structure or premises, and, except as otherwise herein provided in section C26-161.0 through C26-188.0 by a diagram of the lot or lots showing the established grade and the existing surface elevation of the street, if any, on which the construction is to be made, the exact location of any proposed new construction and of all existing structures that are to remain, including information as to the occupancy of such structure.
- b. In the case of an interior alteration or a minor exterior alteration to an existing structure the filing of a lot diagram shall not be required unless the superintendent deems it to be necessary because of special conditions.
- c. In the case of minor alterations which do not involve a structural change and which in the opinion of the superintendent do not require the filing of plans, a statement describing such minor alterations shall be submitted to the superintendent on such form as he may designate.
- d. When plans are required to be filed, and such plans contemplate structural changes or structural work affecting public health or safety, they shall be accompanied by a signed statement of a licensed architect or a licensed professional engineer stating that he has supervised the preparation of the plans and that to the best of his knowledge and belief the structure if built in accordance with the plans, will conform to this title and to the rules of the board, and will not conflict with any provision of the charter, the multiple dwelling law, the labor law, the general city law, the building zone resolution, or any other provision of law applicable thereto, except as specifically noted otherwise.
- e. If a licensed professional engineer has been employed in the preparation of the structural or mechanical design, the structural or mechanical plans shall be accompanied by his signed statement declaring that the structural or mechanical design drawings prepared under his supervision, to the best of his knowledge and belief, conform with the laws governing building construction, except as specifically noted otherwise.
- f. If there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the law, the signed statement of the licensed architect or licensed design professional engineer shall state the nature of such difficulties or hardships.
- g. Before a permit is issued, the owner, or his authorized agent, shall furnish the Commissioner with the name and address of the person who is to supervise the construction in accordance with the requirements of section C26-187.0, with power of substitution upon written notice to the Commissioner.

h. Fees to accompany application.-The superintendent shall collect a fee for each application filed and construction or alteration permit issued. Such fees are for the filing and processing of applications and plans, issuance of construction permits, and for construction work inspections. The prescribed fee shall be paid by the owner of the premises affected. Thirty percent of the total fees, but not less than fifteen dollars, or the total fee where such fee is less than \$15, shall accompany the application for an approval of plans or other description or indication of construction work and the remainder of the fee shall be paid before the construction permit may be issued. Plumbing work, standpipe work, automatic sprinkler work and elevator work are all included in the term "construction" whenever plans and applications for such work are filed with construction or alteration plans, otherwise they shall be treated as separate applications for which separate fees shall be applied and collected in accordance with the provisions of this subdivision. The provisions of this subdivision shall apply and no fee shall be payable hereunder if the owner of the premises affected be 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 net earnings of which enures to the benefit of any private shareholder or individual, and provided that the premises affected are to be used exclusively by such corporation or association for one or more of such purposes.

Fees shall be computed as hereinafter provided. The fees for new buildings, open air stadia, shall be as follows:

1. For the erection of structures:

(a) Two dollars per 1,000 cubic feet or fraction thereof of the volume of the structure for the first 100,000 cubic feet; one dollar per 1,000 cubic feet or fraction thereof of the volume of the structure for the next 500,000 cubic feet; and fifty cents per 1,000 cubic feet for each 1,000 cubic feet or fraction thereof in excess of 600,000 cubic feet of volume of the structure for all structures except office buildings, loft buildings, garage buildings, foundries, machine shops, factories and buildings for similar types of occupancy except as otherwise provided in terms (e) and (f) herein but not less than fifteen dollars per structure.

(b) One dollar sixty cents per 1,000 cubic feet or fraction thereof of the volume of the structure for the first 100,000 cubic feet; eighty cents per 1,000 cubic feet or fraction thereof of the volume of the structure for the next 500,000 cubic feet and forty cents per 1,000 cubic feet for each 1,000 cubic feet or fraction thereof in excess of 600,000 cubic feet of volume of the structure for office buildings loft, garage, foundry, machine shop and factory buildings and buildings for similar type of occupancy, but not less than fifteen dollars per structure.

(c) Fifteen dollars plus one dollar fifty cents for each 1,000 square feet or fraction thereof of seating area and of each tier of seats and their appurtenant aisles passageways, rest-rooms, sanitary facilities, spaces, etc., for open air places of assembly, whether for amusement, instruction, entertainment, religious services or any other purposes. For the purpose of determining areas for computing fees, the area shall be the projected horizontal area of each seating area and each tier.

(d) Five dollars for the lowest story of a structure when such lowest story is a basement or cellar not exceeding six hundred twenty-five square feet in area.

(e) Forty dollars for a single facility dwelling not exceeding 800 square feet in area and not exceeding two stories, attic and basement or cellar in height.

- (f) Sixty dollars for a two-family dwelling not exceeding 1,500 square feet in area and not exceeding two stories, attic and basement or cellar in height.
  - (g) Seventy-five cents for each 1,000 cubic feet of the volume of the structure or fraction thereof, but not less than fifteen dollars for a temporary frame structure.
  - (h) Fifteen 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 garage are filed with the application and plans for the one-, two- or three-family dwelling to which it is accessory.
  - (i) Fifteen dollars for the first one thousand dollars (or any fraction thereof) of the cost of the structure; ten dollars for each additional one thousand dollars or fraction thereof of cost of five thousand dollars of the structure; five dollars for each additional one thousand dollars or fraction thereof of the structure of cost over five thousand dollars; but not less than fifteen 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. Application for elevator work submitted separately, ten dollars.
2. For open spaces:
- (a) Three dollars per each 2,000 square feet of area, but not less than fifteen dollars, for spaces without roof whether enclosed or unenclosed on sides, such as parking lots, gasoline or oil selling stations, storage yard, junk yards, sales or exhibition or show spaces and spaces used for generally similar purposes.
  - (b) For golf driving ranges, two dollars for each 20,000 square feet of area or fraction thereof but not less than fifteen dollars, plus fifteen dollars for an accessory structure not to exceed 144 square feet.
3. Required fees for permits for alterations and for the demolition of buildings and structures shall be:
- (a) For the alteration of buildings and structures:
    - \$15 for the first \$1,000 or any fraction thereof of alteration, except for alterations to plumbing, the cost of which is less than \$500, and which do not involve a structural change or a change of occupancy, the required minimum fee shall be as follows:
      - \$5 for the first \$250 or any fraction thereof, and
      - \$10 when the cost is over \$250 and less than \$500.
    - \$10 per \$1,000 or fraction thereof of the cost of alteration for the next \$4,000 of cost;
    - \$5 per \$1,000 or fraction thereof of the cost of alteration for the next \$5,000 of cost; and
    - \$3 per \$1,000 or fraction thereof of cost of alteration in excess of \$10,000.
  - (b) For the demolition of buildings and structures:
    - Fees for the demolition of buildings and structures shall be computed by multiplying the street frontage in feet by the number of stories times ten cents. In the case of a corner lot, the larger street frontage shall be used. The minimum fee shall be fifteen dollars.
4. 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 fifteen 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 fifteen 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 thirty percent of the total computed fee, but not less than fifteen dollars.

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

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

7. An attic containing more than one living room shall be considered a story for the purpose of this section.

8. In the application of the foregoing methods of determining the amount of fees for permits, a vertical or a horizontal addition to any structure shall not be deemed to be an alteration but shall be deemed to be an erection, and fees shall be computed as prescribed in this section for permits for the erection of structures.

**§C26-161.1 Special requirements for certain structures on water front property.**-Except as otherwise provided in section C26-6.0 herein, it shall be unlawful to construct or alter any structure on water front property not used in conjunction with and in furtherance of water front commerce and/or navigation without first securing from the commissioner of marine and aviation and filing with the department a statement in writing furnishing the following information:

1. A description of the property where the construction work is to be performed;
2. The name and address of the owner of such property; and
3. That the commissioner of marine and aviation approves the proposed construction work as being consistent with the plans for the water front of the city.

**(2.1.1.2). §C26-162.0 Elevations.**-All elevations on plans accompanying applications for permits shall be referred to mean sea level at Sandy Hook established as the standard datum of the United States coast and geodetic survey which is hereby established as the city datum.

**(2.1.1.3). §C26-163.0 Information as to Subsoil Conditions.**-Applications for permits shall contain such information concerning the subsoil as may be required by the rules of the board, but temporary permits for foundation work may be issued and work commenced before final plans, accompanied by such additional information and test data as may be required by the superintendent, are available.

**(2.1.1.4.1). §C26-164.0 Special Requirements for Plumbing Plans.**-

- a. Sewer and Water Supply Data.-Plans for new plumbing systems and, when required by the superintendent, plans for alterations to plumbing systems, shall be accompanied by a diagram approved by the borough president showing the relative elevation of the lowest fixture, referred to the city datum and the approximate inside top of the public sewer, and by a certificate from the department of water supply, gas and electricity, giving the minimum

water pressure in the main in front of the structure. The plans shall also show the number, size and location of all proposed sewer connections.

(2.1.1.4.2). b. Plumber's Statement.-

1. It shall be unlawful to commence any plumbing or gas piping work, except as provided in section C26-171.0, until a registered plumber has signed the specifications and filed a signed statement with the superintendent containing the address of said plumber and stating that he is duly authorized to proceed with the work. It shall be unlawful to commence such work until a permit for such proposed work has been issued by the superintendent.

2. It shall be unlawful for any registered plumber to sign the specification and act as agent for a plumber who is without a certificate of competency from the commissioner of health as an employing or master plumber. Violation of this provision shall be sufficient reason for the superintendent to cancel a certificate of registration.

(2.1.1.4.3). c. Plumbing Plans and Specifications Covering Identical Adjoining Structures.-

One set of plumbing or gas piping plans and specifications will be accepted for several structures which are to be exactly similar, if such structures are to be constructed on adjoining lots, are under the same ownership, and if the applications for permission to construct are filed simultaneously.

(2.1.1.4.4). d. Plumbing Plans to Include Water Supply Lines.-Where the installation of a water distribution or the replacement or alteration of a water supply distribution system is to be made, plumbing plans shall indicate all water distribution lines and branches involved, the size of each such line and branch, and the fixtures or devices to be supplied.

(2.1.1.4.5). e. Notice of Commencement of Plumbing and Readiness for Inspection.-The plumber shall notify the superintendent in writing when any plumbing or gas piping work is begun and when such work is ready for inspection.

**(2.1.1.5.1). §C26-165.1 Special Requirements for Steam Boiler Installations and Operation.-**

a. It shall be unlawful to install any steam boiler with safety valve set to operate at a pressure exceeding fifteen pounds per square inch until there has been filed with the department a notice of such proposed installation stating the type, size and make of each such steam boiler.

b. No steam boiler hereafter installed with safety valve set to operate at a pressure exceeding fifteen pounds per square inch shall be operated until such time as a certificate of approval to permit the operation of such steam boiler has been issued by the department after test and inspection.

**(2.1.1.6). §C26-166.0 Authorization of Owner to Perform Work.-**If construction or plumbing or gas piping is to be performed by any person other than the owner in fee of the land, the person intending to make such construction or to construct such plumbing, either as lessee, or in any representative capacity, shall accompany his application for a permit with a statement in writing, sworn to as provided in section C26-161.0, giving the full name and residence of each of the owners of the land, structure or proposed structure, or premises, and reciting that he is duly authorized to perform the work described. Such statement may be made by the agent, licensed architect, or licensed professional engineer of the person hereinbefore required to make the statement.

**(2.1.1.7). §C26-167.0 Permits for Elevator Installations.-**

a. It shall be unlawful to construct, install or alter any elevator or similar machine for which provision is made in article fourteen of this title, until the owner or lessee, or his agent, licensed architect or licensed professional engineer shall have submitted to the

superintendent, in such form as the superintendent may prescribe, an application accompanied by plans and drawing showing the proposed construction, equipment, and mode of operation, and a permit has been issued by the superintendent.

b. Ordinary repairs and replacements to such machines may be made in accordance with the provisions of this title and with the rules of the board without filing such an application, except when such repairs or replacements involve a change in use, classification, operation, control, character of power supply, capacity, speed, type of car or type of counter-weight safety devices. Notice of such repairs, however shall be given to the superintendent before work is commenced.

**(2.1.1.8). §C26-168.0 Notice to Demolish.**-Before any structure or part of a structure is demolished, a statement in writing, on appropriate blanks to be furnished by the department, which shall constitute a notice to demolish shall be submitted to the superintendent by the owner or any person authorized by the owner, giving the full name and residence of each of the owners of the structure to be demolished the name and business address of the person who is to do the work and such other information respecting the structure as the superintendent may require. Such notice shall be submitted before the work of demolition is commenced and the superintendent shall issue a permit upon approval of such notice, provided, however, that such owner has secured a certificate from the department that such structure has been effectively treated for the extermination of rats. The requirements of such certificate shall not apply in the case of a structure deemed by the borough superintendent to be unsafe and a hazard to persons and property.

**(2.1.1.8.1). §C26-168.1. Penalty for failure to demolish or to comply with state rent control eviction certificate.**-Any person who shall have filed and received approval of plans for a new building from the department and thereafter caused any residential tenant in a building on the site of the proposed new building to move or be evicted therefrom pursuant to a certificate of eviction issued by the temporary state housing rent commission and who after obtaining such certificate of eviction shall offer such building or the land on which it stands for sale or shall fail to demolish such structure within six months after removal of the tenants therefrom or who after such demolition shall fail to commence the erection of a structure pursuant to such plans within ninety days after the completion of such demolition or who shall fail to continue or complete construction within a reasonable time shall be guilty of a misdemeanor; and in addition to all other liabilities and penalties imposed by law, shall forfeit and pay for each homing accommodation in a building which was vacated as a result of the issuance of a certificate of eviction by the temporary state housing rent commission, a penalty of not more than five hundred dollars, as may be fixed by the court awarding judgment therefor. An action may be brought by the city for the recovery of any such penalty or penalties in the municipal court or any other court of record in the city. It shall be a defense to any prosecution or action to recover a penalty under this section that (1) the act or omission was done in good faith and with no intent to violate any of the provisions of this section; or (2) if the prosecution or action be based on a sale of the property, that the purchaser has demolished the structure and commenced the erection of the new building within the time limits herein provided for or, if such time limits have not expired that the purchaser has unconditionally undertaken to do so, within such time limits.

**(2.1.1.9). §C26-169.0 Place of Filing Applications, Notices and Statements.**-All applications, notices and sworn statements required by this title, and copies of the approved plans shall be kept on file in the department. Applications shall be promptly docketed as received. For purposes of identification and reference all such papers shall be marked with the block and lot number of the

property to which they apply, and with the street and house number when possible, and the distance to the nearest street intersection. In outlying sections this requirement may be waived by the superintendent.

**(2.1.1.10). §C26-170.0 Amendments to Applications.-**Amendments to any application or permit may be filed at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be made part of the application and filed as such.

**(2.1.1.11). §C26-171.0 Ordinary Repairs Excepted from Permit Requirements.-**

a. Ordinary repairs to structures may be made without application or notice to the superintendent, but such repairs shall not include the cutting away of any wall or any portion thereof, the removal or cutting of any beams or supports or the removal change or closing of any stairway or required means of exit.

b. Ordinary repairs to the plumbing system may be made without application or notice to the superintendent, but such repairs shall not include addition to, or alteration, replacement or relocation of any standpipe piping, water distribution piping, house sewer, private sewer, or drainage system including leaders, or any soil, waste or vent pipe, or any gas distribution.

**(2.1.1.13). §C26-173.0 Electrical Workers Qualifications.-**It shall be unlawful to construct any electrical work or electrical devices in connection with signal systems, alarms, or other electrical apparatus or devices of sprinkler systems or standpipe systems until an application is made to perform such work by a person, partnership or corporation holding a license or a special license from the department of water supply, gas and electricity, as provided in sections B30-2.0 through B30-17.0 of the code.

## **GROUP 2**

### **Issuance of Permits**

**(2.1.2.1). §C26-174.0 Approval of Applications.-**It shall be unlawful to construct any structure, or any part thereof, or any plumbing, until the application required by sections C26-161.0 through C26-188.0, shall have been approved by the superintendent and a written permit issued by him. The superintendent shall approve or reject any application or plan, or amendment thereto, filed with him pursuant to the provisions of this title, within a reasonable time and, if he approves, shall promptly issue a notice of such approval, and shall upon the compliance with all provisions of law relating thereto promptly issue a permit therefor.

**(2.1.2.2). §C26-175.0 Approval of Applications in Part.-**The superintendent may approve and issue a permit for the construction of part of a structure, including foundations, when plans and detailed statements have been presented for such part, before the entire plans and detailed statements of such structure have been submitted or approved.

**(2.1.2.3). §C26-176.0 Signature to Permit.-**Every permit issued by the superintendent under the provisions of this title shall have his signature affixed thereto, but the superintendent may authorize any subordinate to affix such signature.

**(2.1.2.3.1). §C26-176.1 Posting of Permit-**

a. Wherever there is any construction, alteration, or demolition in progress, for which a permit is required, on any premises, a permit card bearing the permit number, application number and the location of the premises for which issued, shall be posted in a conspicuous location on the exterior of the structure or premises where the work is in progress, so as to be visible to public inspection.

b. The commissioner may make rules concerning the information to appear on the card, the size of card, the method, location and period of display and any other related matters so as to carry out the intent of this section.

c. It shall be unlawful to display a permit card at any location other than the location for which it was issued.

**(2.1.2.4). §C26-177.0 Expiration of Applications and Permits by Limitation.-**

a. Any permit issued by the superintendent under the provisions of this title, but under which no work is commenced within one year from the date of issuance, shall expire by limitation.

b. Any application for an approval which has been disapproved in part and upon which no further action has been taken by the applicant within two years after the notice of partial disapproval was given shall be considered as automatically withdrawn, but may be reinstated by the superintendent provided it complies with all provisions of the law in effect at the time application for reinstatement is made.

c. Any such application upon which no action has been taken by the applicant within thirty months after the date of partial disapproval shall, with its accompanying plans, be removed from the file and destroyed.

**(2.1.2.5). §C26-178.0 Compliance with Plans, Laws and Regulations.-**

a. It shall be unlawful to construct any structure, or any plumbing, except in accordance with the approved detailed statement of specifications and plans, for which the permit was issued, or any approved amendment thereof. A certified copy of the approved plans shall be kept at all times on the premises from the commencement of the work to the completion thereof, except that this requirement may be waived by the superintendent where he deems compliance with it is unnecessary.

b. Permits for construction or equipment of a structure issued by the superintendent shall be deemed to incorporate the proviso that the applicant, his agent, employees or contractors shall use only approved materials, appliances and methods of construction and shall carry out the proposed work in accordance with the approved plans and with all requirements of this title and any other laws or regulations applicable thereto, whether specified or not.

**(2.1.2.6). §C26-179.0 Adherence to Diagrams.-**It shall be unlawful to fail to adhere strictly to the location of any new structure, or of an extension to an existing structure, as shown on the diagram filed as required by section C26-161.0 or on any approved amendment of such diagram. A survey by a duly licensed surveyor showing the location of the new structure or extension shall be filed before completion of the structure. His survey shall show the location of the structure, the elevation of the first tier of beams or of the first floor, the finished grades of the open spaces on the plot, the established curb level and the location of all other structures on the plot, together with the location and boundaries of the lot or plot upon which the structure is constructed. It shall be unlawful to reduce or diminish the area of any lot, a diagram of which has been filed with an application to construct and has been used as basis for a permit, unless the structure for which the permit was issued complies in all respects with the requirements of this title for structures located on plots of such diminished area; provided that this requirement shall not apply to any lot the area of which is reduced by reason of any street opening or widening or other public improvement.

Where minor extensions of existing structures, or small sheds, stands, watchmen's shelters, signs and similar small structures are erected, the superintendent may waive the requirement that a survey be filed.

**(2.1.2.7). §C26-180.0 Revocation of Permits.**-The superintendent may revoke any permit or approval issued under the provisions of this title, whenever there has been any false statement, or any misrepresentation as to a material fact in the application on which the permit or approval was based, or whenever any permit or approval has been issued in error and conditions are such that a permit or approval should not have been issued.

### **GROUP 3**

#### **Certificates of Occupancy**

**(2.1.3.1). §C26-181.0 Certificates of Occupancy for New Structures.-**

a. It shall be unlawful to occupy or use any structure erected after January first, nineteen hundred thirty-eight, in violation of section six hundred forty-six, subdivision a of the charter. The superintendent shall issue a certificate of occupancy, in such form as may be authorized by the board, certifying that such structure conforms substantially to the approved plans and specifications and the requirements of the laws governing building construction applicable to structures of the class and kind of such structure.

b. A certificate of occupancy shall be issued in conformity with section six hundred forty-six, subdivision e of the charter.

**(2.1.3.2). §C26-182.0 Temporary Certificates of Occupancy.-**The superintendent may issue a temporary certificate of occupancy for part of a structure, pursuant to section six hundred forty-six, subdivision g of the charter. Original temporary certificates of occupancy may be granted for periods of not more than ninety days and be subject to renewal by the superintendent for similar periods of not more than ninety days at his discretion.

**(2.1.3.3). §C26-183.0 Occupancy of Altered Structures.-**

a. It shall be unlawful to occupy or use in whole or in part, for any purpose whatever, any structure altered after January first, nineteen hundred thirty-eight, which was vacant during the progress of the work of alteration until a certificate of occupancy shall have been issued by the superintendent certifying that the work for which the permit was issued has been completed substantially in accordance with the approved plans and specifications and the provisions of the laws governing building construction applying to such an alteration.

b. In case such structure has been substantially altered so as to affect any existing means of egress or has been converted or altered from one class to another class or has been converted or altered so as to increase the number of living rooms or apartments in the building and such alteration does not necessitate the vacation of the building during the progress of the work, the occupancy or use of the building shall not continue more than thirty days after the completion of such alteration, unless a certificate of occupancy has been issued by the superintendent. The term "class" as used herein refers to the classification of buildings in this title and also to the terms "class and kind" as used in the multiple dwelling law when such law is affected. (L. 1942.)

2. This local law shall take effect immediately.

**(2.1.3.4). §C26-184.0 Occupancy of Existing Structures.-**The legal occupancy and use of any structure existing on January first, nineteen hundred thirty-eight, may continue, except as may be specifically prescribed by this title or as may be necessary for the safety of life, health or property. Upon written request from the owner, the commissioner shall issue a certificate of occupancy for any structure existing on January first, nineteen hundred thirty-eight, certifying, after verification by inspection, such occupancy or use of such structure, provided that at the time of issuing such certificate there are no notices of violation, or other notices or orders,

pending in the department. The occupancy and use of any structure on water front property not used in conjunction with and in furtherance of water front commerce and/or navigation, and for which a certificate of completion has been or is issued pursuant to law by the commissioner of marine and aviation, may continue, except as may be specifically prescribed by section C26-276.0 of this title. Except, as otherwise provided in this section the commissioner of buildings shall honor such certificates of completion for the uses and purposes certified to therein.

**(2.1.3.5). §C26-185.0. Change of Occupancy.-**

a. It shall be unlawful to make any changes of occupancy or use of any structure if such change is inconsistent with the last issued certificate of occupancy. It shall be unlawful to make any change of occupancy in a structure, existing on January first, nineteen hundred thirty-eight, which would bring it under some special provision of the laws governing building construction, unless a certificate is issued by the commissioner certifying that such structure conforms to the provisions of the laws governing building construction for the proposed new occupancy and use and that the proposed use will not be in conflict with any provisions of the labor law, multiple dwelling law or the building zone resolution.

b. Except as herein provided, a new certificate of occupancy shall not be required where the change of use is within the same use group as listed in the amended zoning resolutions. Where a portion of a building exceeding three stories in height is changed to a different use, and this portion of the building does not exceed twenty percent of the total floor area, an amendment to the existing certificate of occupancy for such new use shall be issued by the commissioner certifying that the proposed new occupancy and use conforms to the provisions of the laws governing building construction and that the proposed use will not be in conflict with any provisions of the labor law, multiple dwelling law or the building zone resolution.

**(2.1.3.6). §C26-186.0 Contents of Certificates of Occupancy.-**In addition to the certification, required by this article, of compliance with the approved plans and application and with the provisions of laws governing building construction, each certificate of occupancy shall state the purposes for which the structure may be used in its several parts, the maximum permissible live loads on the several floors, the number of persons which may be accommodated in the several stories and any special stipulations of the permit.

**(2.1.3.7). §C26-187.0 Affidavits Accompanying Applications for Certificates of Occupancy.-**

a. Applications to the superintendent for a certificate of occupancy for a structure, the plans for which were accompanied by an affidavit as required by section C26-161.0, may be accompanied by an affidavit of the licensed architect or licensed professional engineer who filed the original plans or of the licensed architect or licensed professional engineer who supervised the construction of the work.

b. In case the application for the certificate of occupancy is not accompanied by the affidavit of the licensed architect or licensed professional engineer who filed the original plans or who supervised the construction work, it shall be accompanied by the affidavit of a superintendent of construction who supervised the construction work and who has had at least ten years' experience in supervising building construction work.

c. The affidavit of a licensed architect, licensed professional engineer or superintendent of construction who supervised the construction, shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, and that to the best of his knowledge and belief the structure has been erected in accordance with the approved plans, and as erected complies with the laws governing building construction,

except in so far as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.

**(2.1.3.8). §C26-188.0 Issuance and Filing of Certificates of Occupancy.-**

- a. The superintendent shall issue certificates of occupancy for a structure within ten days after written application therefor, if at the date of such application such structure shall be entitled thereto. A record of all certificates shall be kept in the department and copies shall be furnished on request and on the payment of a fee of one dollar per copy, to any person having a proprietary interest in the structure affected.
- b. Certificates of occupancy for structures erected after January first, nineteen hundred thirty-eight, shall be issued only after the floor load signs, required by section C26-343.0 have been installed.

**Sub-Article 2. Enforcement**

**GROUP 1**

**Rules**

**(2.2.1.1). §C26-189.0 Authority to Adopt Rules.-**

- a. The board shall have power to adopt rules to secure the intent and purposes of this title and a proper enforcement of its provisions. The board shall also have power to make rules and regulations respecting the approval of materials and methods of construction. Such rules shall be uniform in all the boroughs.
- b. Where not inconsistent with specific provisions of this title, the rules adopted by the board before January first, nineteen hundred thirty-eight, by the former superintendent of buildings, and by the former board of buildings are hereby confirmed and they shall remain effective until amended or repealed.
- c. Wherever in this title A. S. T. M. specifications or other standard specifications are prescribed such specifications shall govern until such time as they may be amended, modified or superseded by the board.

**GROUP 2**

**Right of Entry of Officers and Employees**

**(2.2.2). §C26-190.0 Right of Entry of Officers and Employees.-**Any officer or employee of the department, so far as may be necessary for the performance of his duties, under section six hundred forty-nine of the charter, shall have the right upon showing his badge of office to enter any structure or premises in the city.

**GROUP 3**

**Approval of Materials, Appliances and Methods of Construction**

**(2.2.3). §C26-191.0 Approval of Materials, Appliances and Methods of Construction.-**

- a. Except as otherwise provided in section six hundred forty-five of the New York city charter and in section C26-4.0 of this Code, the sole authority to test and approve materials and appliances is vested in the board.
- b. Whenever any materials, appliances or methods of construction have been approved by the superintendent, a record of such approval shall be kept on file in the department and shall be open to public inspection during business hours.

c. Any material, appliance or form of construction coming under the provisions of this title and approved before January first, nineteen hundred thirty-eight, may be used for the purposes for which it was approved, except so far as may be inconsistent with specific provisions of this title.

d. The use of any material already fabricated or of any construction already erected, which conforms to statutes passed prior to January first, nineteen hundred thirty-eight, shall be permitted, but the continuance of any construction erected in violation of any statute previously in force, shall be unlawful and any penalty incurred before January first, nineteen hundred thirty-eight, may be collected.

**(2.2.3.1). §C26-192.0 Identification Marks.**-Identification marks, such, as grade marks, trade-marks and manufacturers' marks, for which official recognition is desired, shall be filed with the board and acceptance by it shall constitute official recognition of such marks, after the board shall have filed with the Commissioner of Housing and Buildings six certified copies of the approved trademark.

#### **GROUP 4**

##### **Care of Unsafe or Dangerous Structures**

**(2.2.4.1). §C26-193.0 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 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 hereinbefore 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.

**(2.2.4.2). §C26-194.0 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 acceptance or rejection of the order. The notice shall further notify said person that upon his refusal or neglect to comply with any of the requirements of this section or of section C26-195.0, a survey of the premises named in such notice will be made at a time and place therein named, in accordance with section C26-196.0. 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 contain 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 structure 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 C26-202.0.

**(2.2.4.3). §C26-195.0 Voluntary Abatement of Unsafe or Dangerous Conditions.**-If the person served with a notice as specified in section C26-194.0, shall immediately certify his assent to the securing or removal of such unsafe or dangerous structure or premises, or such structure which is dangerous or unsafe as a fire hazard or detrimental to human life, health or morals, he 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.

**(2.2.4.4.1). § C26-196.0 Disregard of Notice; Survey.-**

a. Identity of Surveyors. The survey referred to in section C26-194.0 shall be made by three competent persons of whom one shall be the superintendent, or an engineer or an inspector designated in writing by him; another shall be a licensed architect, appointed either by the county chapter of the American 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 C26-194.0. 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 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 hereinbefore 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 the section C26-196.0, 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.

**(2.2.4.5.1). §C26-197.0 Judicial Review of Survey.-**

a. Institution of Proceeding. Wherever 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.

(2.2.4.5.2). 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.

(2.2.4.5.3). 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 attorney. Such notice of trial may be served in the same manner as the original notice.

(2.2.4.5.4). 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 forthwith to vacate and repair, 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.

**(2.2.4.6.1.). §C26-198.0 Repair or Removal Under Precept.-**

a. Execution of Precept. Upon receiving a precept under the provisions of section C26-197.0, 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. 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 the commissioner of real estate 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 real estate in accordance with the provisions of subdivisions b and c of section 1082c-2.0 of the code. The owner of such structure, or part thereof, or premises, or any party interested therein, if he 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 the precept at his 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 in writing by the owner of such structure, or part thereof, or premises, or his representative, when such superintendent shall be satisfied that such change will secure the safety of such structure or premises equally well.

b. Interference prohibited.

1. It shall be unlawful for any person to interfere, obstruct or hinder the superintendent or commissioner of real estate or the representative of either, or any person who, acting under the authority conferred on him 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 title.

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 real estate with respect to demolition work performed by or under the direction of such commissioner pursuant to the provisions of this section.

**(2.2.4.7). §C26-199.0 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 as provided in section one hundred seventeen, subdivision five c of the charter.

**(2.2.4.8). §C26-200.0 Return of Precept; Reimbursement of City.**-Upon compliance with any precept issued to him 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 section C26-193.0 through C26-205.0 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.

**(2.2.4.9.1). §C26-201.0 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 docks, parks, police and sanitation and the borough president, 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.

(2.2.4.9.2). 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 shall request the commissioner of real estate 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 title are instituted.

(2.2.4.9.3). 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.

(2.2.4.9.4). d. Laborers and Materials.-For the purposes of this article, the superintendent shall employ such laborers and materials as may be necessary to perform such work as expeditiously as possible.

## **GROUP 5**

### **Violations and Punishments**

#### **(2.2.5.1.1). §C26-202.0 Notices of Requirements or of Violations.-**

a. Issue of Notices or Orders.-All notices of the violation of any of the provisions of this title, and all notices or orders required or authorized by this title, directing anything to be done, including notices or orders that any structure, premises, or any part thereof, is deemed to be unsafe or dangerous, shall be issued by the superintendent and shall have his name affixed thereto.

(2.2.5.1.2). 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.

(2.2.5.1.3). c. Services of Notices or Orders.-Notices or orders issued by any court in any proceeding, instituted pursuant to this title to restrain or remove any violation or to enforce compliance with any provision or requirement of this title, 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 title, or who may be designated as provided in subdivision d of section C26-205.0. Notices or orders to restrain or remove any violation issued by the superintendent or commissioner pursuant to this title 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.

(2.2.5.1.4). 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 last known place of residence, which shall be equivalent to a personal service of such notice order or upon all parties for whom such search shall have been made.

#### **(2.2.5.2.1). §C26-203.0 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 title shall endanger life or property, the superintendent, or such person as may be designated by him, 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 judgment may be necessary to remove any danger therefrom.

(2.2.5.2.2). 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 title that concern the protection of the public and workmen 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 prodded in section C26-204.0.

(2.2.5.2.3). 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 subordinates shall enforce all orders or requirements made under this article, when so requested by the superintendent.

**(2.2.5.3.1). §C26-204.0 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 title 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 title, 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 title, 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 title; the superintendent may, in his 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 title, after having been duly notified as provided in this title 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 title, 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 persons licensed or possessed of a certificate of qualification to do such work.
4. A violation that consists of doing work without a permit and the worker refuses to discontinue the work.

(2.2.5.3.2). 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 title.

(2.2.5.3.3). 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 title to be brought for the recovery of any fine or the enforcement of any provision of this title, and to make appropriate orders and render judgment therein according to law, so as to give force and effect to the provisions of this title. 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 title.

(2.2.5.3.4). d. Restraining Order.-In any such action or proceeding the city may, in the discretion of the superintendent and on his 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.

(2.2.5.3.5). e. Judgment.-All courts in which any action or proceeding is instituted under this title shall, upon the rendition of a verdict, report of a referee, or decision of a judge or justice, render judgment in accordance therewith.

(2.2.5.3.6). f. Lien of Judgment.-Any judgment rendered in an action or proceeding instituted under this title 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.

(2.2.5.3.7). 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 may deem such action to be necessary. Any notice of lis pendens filed pursuant to the provisions of this title 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.

(2.2.5.3.8). 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 title.

(2.2.5.3.9). 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 title, or by reason of any act or omission in the performance of his official duties.

**(2.2.5.4.1). §C26-205.0 Judicial Orders.-**

a. Judicial Orders to Comply with Notices or Orders.-In case any notice or direction authorized to be issued by this title 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.

(2.2.5.4.2). 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 title, 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 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.

(2.2.5.4.3). 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 know 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 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 postpaid wrapper addressed to such owner or agent at his then known place of residence.

(2.2.5.4.4). 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 title, 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 title, 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.

(2.2.5.4.5). 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 section C26-205.0 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 title, 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 take 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.

**(2.2.5.5.1). § C26-206.0 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 title 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 title or fail to comply therewith, or any 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 and non-compliance, respectively, be punished by a fine of not less than ten dollars and not more than fifty dollars.

(2.2.5.5.2). b. Heating Plant and Fire Prevention Violations.-Any person who shall violate any of the provisions of this title, as to the construction of chimneys, fireplaces, flues, warm-air pipes or furnaces or who shall violate any of the provisions of this title 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.

(2.2.5.5.3). 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 C-26-210.0, 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 one hundred dollars and not more than five hundred dollars for a subsequent offense.

(2.2.5.5.4). d. Continuing Violations After Notice.-Any person who, having been served with a notice as prescribed in this title to remove any violation or comply with any requirement of this title, 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 title 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.

(2.2.5.5.5). 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 any municipal court, or 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 act.

(2.2.5.5.6). 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 title, liability shall cease, and the corporation counsel, on request of the superintendent, shall discontinue any prosecution or action pending to recover any fine, upon such removal or the completion thereof within a reasonable time.

**(2.2.5.6). §C26-207.0 Violations of Peremptory Orders.-**Any person who shall receive and fail to comply with any written peremptory order of the superintendent 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.

**(2.2.5.7). §C26-208.0 Appeal.-**An appeal from any decision of the superintendent may be taken to the board.

### **Sub-Article 3. Registration; Certificate of Qualifications**

**(2.3). §C26-209.0 Registration; Certificate of Qualification.-**

a. The superintendents of all five boroughs sitting as a body shall formulate rules for the examination of applicants for certificates of qualification as required under sections C-26-211.0 through C-26-213.0. Examinations in each borough shall be based on the rules so adopted.

b. The superintendent shall designate one or more competent persons of his department to conduct examinations, rate applicants and perform any other duties incidental thereto. The examiners for each class of certificate of qualification shall have had the experience, training and knowledge necessary properly to determine the fitness of the applicants for the performance of the duties for which such applicants seek certificates of qualification.

c. Certificates shall be issued to persons whose right to such certificates is established.

**(2.3.1.1) § C26-210.0 Registration of Plumbers.-**

a. Annual registration of employing or master plumbers required.-Every employing or master plumber carrying on his trade, business or calling in the city shall annually register his name and address at the office of the department in the borough in which he performs work, under such rules as that department may prescribe. Such registration may be cancelled by the superintendent after a hearing before the superintendent upon prior notice of at least ten days, for a violation of the duly adopted rules and regulations for plumbing or drainage, or whenever the person so registered ceases to hold a certificate from the commissioner of health, or ceases actually to be engaged in the business of an employing or master plumber.

(2.3.1.2). b. Registration of Persons, Corporations and Co-partnerships Engaged in Plumbing.-It shall be unlawful for any person, corporation or co-partnership to carry on or engage in the trade, business or calling of employing or master plumber in the city unless the name and address of such person, or of the president, secretary, or treasurer of such corporation, or of all members of the co-partnership, shall have been registered as provided in subdivision a of this section.

(2.3.1.3). c. Illegal Representation as Plumber Unlawful.-It shall be unlawful for any person, corporation or co-partnership that has failed to comply with the requirements of this section to represent himself or themselves to the public as a master or employing plumber by use of the word “plumber” or “plumbing”, or any words of similar import or meaning.

(2.3.1.4). d. Metal Plate or Sign to be Posted.-It shall be unlawful for any person, corporation or co-partnership to engage in or carry on the trade, business or calling of master plumber, unless such person, corporation or co-partnership has conspicuously posted in the window of the place where such business is conducted a plate or sign reading “Licensed Plumber” in accordance with rules adopted by the commissioner of health.

(2.3.1.5). e. Improper Use of Registration or Certificate Forbidden.-It shall be unlawful for any person, corporation or co-partnership registered as provided in this section or holding a certificate from the commissioner of health to apply for, receive, or make use of any permit granted to him by reason of being so registered or to hold such certificate for the benefit of any person engaged in the plumbing business who is not so registered.

**(2.3.2). § C26-211.0 Welders to be Qualified.-**

a. It shall be unlawful for any person to perform welding work on any structural member of a structure without having obtained a certificate of qualification from the superintendent.

b. Before a certificate of qualification may be issued authorizing a person to perform welding work on any structural member of a structure, the person applying for such certificate shall have been qualified as provided in subdivision b of section C26-381.0. A certificate of qualification shall be issued to each applicant upon proof of his qualifications, and upon the payment of a fee of five dollars. The annual renewal fee shall be two dollars.

c. No person shall be eligible for a certificate of qualification to perform welding work as provided in this section unless he is a citizen of the United States of America, or unless he is a North American Indian by birth.

d. The superintendent may revoke or suspend the certificate of qualification of any person whose workmanship on any structural welding is such as to indicate incompetency or negligence which might endanger a structure or result in injury to any person.

**(2.3.3). §C26-212.0 Standpipe Operators; Certificate of Qualification.-**

a. It shall be unlawful for any person to operate a standpipe system unless he shall have obtained a certificate of qualification from the fire commissioner.

**(2.3.4). §C26-213.0 Steam Boiler Operators; Certificate of Qualification.-**

a. It shall be unlawful for any engineer or other person to operate a steam boiler for any purpose whatsoever unless he shall obtain a certificate of qualification from the superintendent, if such boiler carry a pressure of more than fifteen pounds of steam per square inch and of more than ten horsepower to generate steam. Such boiler shall be known as a high pressure boiler.

b. It shall also be unlawful for any engineer or fireman to operate any steam boiler in any vessel on the waters in and around the city which are not under the jurisdiction of the United States government without obtaining a certificate of qualification from the superintendent.

c. Before such certificate of qualification may be issued the person applying for such certificate shall have submitted to and satisfactorily passed an examination to determine his qualifications. Such examination shall be conducted by examiners to be appointed by the superintendent. A certificate of qualification shall be issued to each applicant who shall have proved his qualifications, upon the payment of a fee of five dollars. The annual renewal fee

shall be two dollars. Any such certificate may be revoked or suspended for cause at any time by the commissioner.

d. No person shall be eligible for such certificate of qualification as provided in this section, unless he shall

1. Be at least twenty-one years of age; and
2. Be a citizen of the United States; and
3. Be able to read and write the English language; and
4. Have been employed as a fireman, oiler or general assistant to a duly certificated operating engineer on high pressure boilers 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 application; or
5. Have served as a journeyman boiler maker or machinist engaged in the construction or repair of steam boilers or steam engines for a period of five years within the seven years immediately preceding the date of application at least one of which shall have been under the supervision of a duly certificated operating engineer on high pressure boilers in the city of New York; or
6. Have received the degree of mechanical engineer from a school or college recognized by the university of the state of New York and have had one year's experience in the operation and maintenance of stationary plants under the supervision of a duly certificated engineer on high pressure boilers in the city of New York within the seven years immediately preceding the date of this application at least one of which the seven years immediately preceding the date of his application; or
7. Be 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 have had one year's experience in the city of New York in the operation and maintenance of stationary plants under the supervision of a duly certificated operating engineer on high pressure boilers within the seven years immediately preceding the date of his application; provided that the applicant shall have filed with his application his own signed statement that he is the person named in said certificate together with supporting signed statements by three duly certificated operating engineers employed in the city of New York at the time of making of such signed statements; or
8. Have had direct supervision, care, operation and maintenance of a steam generating plant of a governmental building, having boilers of 150 or more horsepower, for a period of 5 years immediately preceding the date of his application and have had in addition one year's experience under the direct supervision of a duly certificated operating engineer on high pressure boilers in the city of New York, within the seven years immediately preceding the date of his application.

**§C26-213.1 Issuance of Certificates; Scope of Examination.**-A certificate of qualification shall be issued to each eligible applicant who shall successfully pass a written examination consisting of practical questions on the operation and maintenance of steam boilers, engines, pumps and their appurtenances.

**§C26-214.0.** OMITTED as per local law number seventy-six for the year 1957.

**§C26-215.0 Hoisting Machine Operators; Certificate of Qualification.**-It shall be unlawful for any person other than a duly licensed engineer or a holder of the requisite certificate of

qualification to take charge of or operate any machine used for hoisting purposes or cableways, irrespective of power, or which is used for construction or excavation work. Upon filing an application for such license or certificate the applicant shall pay a fee of five dollars, and for the annual renewal of such license or certificate, the sum of two dollars. Any such certificate may be revoked or suspended for cause by the commissioner.

It shall be unlawful for a duly licensed engineer or a holder of a certificate of qualification to operate any such machine which is unprovided with a positive means for preventing the operation of such machine by an unauthorized person. The means whereby such machines may be made inoperative by an unauthorized person shall be subject to the approval of the commissioner.

The authorized/operator of any such machine shall be responsible for making the machine inoperative before he leaves the machine and failure to do so shall constitute a violation.

Any person who shall violate any provision of this section shall be punished by a fine of not more than twenty-five dollars or by imprisonment of not more than twenty-five days, or both.

**§C26-215.1 Duration and Renewal of Certificates of Qualification.**-All certificates of qualification provided for by sections C26-211.0, C26-213.0 and C26-215.0 shall expire one year after date of issuance and may be renewed each year provided application for such renewal is made within thirty days prior to expiration. Unless application is made within the prescribed time the sum of one dollar shall be added to the renewal fee.

**§C26-215.2. Certification and qualification of concrete testing laboratories.-**

a. It shall be unlawful for any person, partnership or corporation to carry on or engage in the business or calling of a concrete testing laboratory in the city without having first obtained a certificate of qualification from the commissioner.

b. Before a certificate of qualification may be issued, the concrete testing laboratory shall adopt such procedures, safety requirements and professional standards as are set forth in rules and regulations promulgated by the commissioner. Such rules and regulations shall be effective when filed in the office of the city clerk. Each concrete testing laboratory seeking a certificate of qualification shall be investigated by the department of buildings both as to equipment and qualifications of its staff. A certificate of qualifications shall be issued to each applicant upon proof of his qualifications and upon payment of a fee of one hundred dollars (\$100). The annual renewal fee shall be fifty dollars (\$50).

c. A violation of any rule or regulations promulgated pursuant to subdivision b of this section shall constitute cause for revocation or suspension of the certificates of qualification by the commissioner, after a hearing upon prior notice of at least ten days.

d. If a concrete testing laboratory shall have failed to obtain a certificate of qualification and shall carry on or engage in such business or calling, or shall carry on or engage in such business or calling during the suspension of or after the revocation of its certificate of qualification, then such persons shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500) or imprisonment by a term of not more than six months or both.

e. All reports to be filed with the department of buildings by the concrete testing laboratory shall be certified to by the laboratory as to the truth and accuracy of said reports.

f. Any person who shall knowingly make a false statement or who shall knowingly falsify any statement or report required under the provisions of this code shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500) or imprisonment by a term of not more than six months or both.

## **Sub-Article 4. Projections and Construction Beyond the Building Line and Within the Curb Line**

### **GROUP 1**

#### **Restrictions on Projections Beyond the Building Line**

**(2.4.1.1). §C26-216.0 General Restrictions on Projections Beyond the Building Line.**-It shall be unlawful to permit the projection of any part of any structure erected after January first, nineteen hundred thirty-eight, or of any enlargement of a structure built before January first, nineteen hundred thirty-eight, beyond the building line so as to encroach upon a public street or public space, except as otherwise specifically provided in this article.

**(2.4.1.2). §C26-217.0 Projections Beyond the Building Line to be Removable.**-Any part of a structure permitted to project beyond the building line under the provisions of section C26-219.0, shall be so constructed that it may be removed at any time without causing such structure to become structurally unsafe in whole or in part.

**(2.4.1.3). §C26-218.0 Structural Support of Projections Beyond the Building Line.**-An encroachment beyond the building line for at most twelve inches or the footings of street walls shall be permitted provided such projecting parts of footings are at least eight feet below the sidewalk level.

**(2.4.1.4.2). §C26-219.0 Permissible Projections Beyond the Building Line.**-

a. Columns, pilaster and ornamental projections beyond the building line.-Columns, pilasters, and ornamental projections, including their moulding and bases, erected purely for the enhancement of the beauty of the structure from an artistic standpoint, may project beyond the building line two and one-half percent or less of the width of the street, but in no case more than eighteen inches, however when such ornamental projections consist of a veneer covering the entire facade of an existing building or part thereof, then the projection shall not exceed more than four inches beyond the building line.

(2.4.1.4.3). b. Ornamental Balustrades Projecting Beyond the Building Line. Ornamental balustrades, including the sills and brackets on which they rest may project beyond the building line five percent or less of the width of the street, but in no case more than twenty-two inches, provided every part of such balustrade is at least ten feet above the sidewalk.

(2.4.1.4.4). c. Mouldings, Belt Courses, Cornices, Lintels, Sills, Pediments and Similar Projections Beyond the Building Line.-Mouldings, belt courses, cornices, lintels, sills, pediments and similar decorative projections may project beyond the building line one and one-quarter percent or less of the width of the street, but in no case more than ten inches.

(2.4.1.4.5). d. Main Cornices Projecting Beyond the Building Line.-Main cornices, meaning thereby moulded projections at or near the top of the street wall, may project beyond the building line two and one-half per cent or less of the width of the street or a maximum of three feet in any case, provided such main cornices are at least twelve feet above the sidewalk at every point.

(2.4.1.4.6). e. Base Courses Projected Beyond the Building Line.-Base courses may project beyond the building line one and one-quarter percent or less of the width of the street, but in no case more than ten inches; provided their maximum height above the highest point of the sidewalk is five feet.

(2.4.1.4.7). f. Rustications and Quoins Projecting Beyond the Building Line.-Rustications and quoins may project beyond the building line maximum of four inches.

(2.4.1.4.8). g. Awnings and Marquees Projecting Beyond the Building Line.-

1. Awnings and marquees may extend over the sidewalk in connection with entrances to public buildings, theatres, hotels, multiple dwellings, large department stores and similar structures of an essentially public nature, except where forbidden by section 82d6-8.0 of the code, provided such awnings or marquees are constructed of iron and glass or other incombustible materials, securely supported from the structure and properly drained.

2. All parts of such awnings or marquees shall be at least ten feet above the sidewalk, shall not extend within two feet of the curb line nor more than two and one-half feet beyond either side of an entrance. The aggregate length of all awnings or marquees on any single street front shall not exceed seventy-five percent of the length of wall on that front nor shall any single marquee exceed fifty feet in length. There shall be a clear distance of at least four feet between any two awnings or marquees on the same structure. The requirements as to length and width of awnings shall not apply on streets designated by law as "market streets."

3. The maximum overall dimensions between top and bottom of such awnings or marquees shall be twenty-four inches.

4. Where unusual conditions are encountered, the superintendent may, at his discretion, vary the above requirements as to size and location.

5. It shall be unlawful to maintain such awning or marquee without a permit therefor issued by the superintendent. The annual fee for such permit shall be five dollars for each one hundred square feet or fraction thereof.

6. Where the occupancy or use of a building for which occupancy or use a marquee was permitted is changed or has been changed to an occupancy or use other than one of those stated in paragraph one of subdivision g of this section, the marquee shall be removed. This provision shall apply to all existing marquees, except those existing marquees on warehouses and markets in the established market areas of the city, as well as to all marquees hereafter erected. The commissioner may determine which areas are established market areas.

(2.4.1.4.9). h. Fire Escapes and balconies to Required Exits.-Fire escapes and balconies to fire towers or other required exits, constructed of incombustible material, when required on the fronts of structures may project beyond the building line four and one-half feet or less, but every part of such fire escapes or balconies shall be at least ten feet above the sidewalk, except that the use of movable ladders or stairs to the sidewalk shall be permitted when they are so arranged as to be within ten feet of the sidewalk only when in actual use.

Letter Boxes.-

1. The post office authorities and property owners are hereby given permission to attach temporarily small mail boxes, known as letter boxes, to any building or part thereof, subject to the approval of the superintendent of buildings having jurisdiction, provided that the written consent of the property owner be filed with such superintendent and that the work be done without cost to the city.

2. Application for permission to attach any such letter box must be made in writing on a form prescribed by such superintendent.

(2.4.1.4.10). Steps. j. In existing structures (except where prohibited in section 82d6-8.0 of the administrative code), steps leading up or down at entrances may project beyond the building line a distance equal to not more than two and one-half percent of the width of the street, but in no case more than eighteen inches, provided that such steps are included

between ornamental columns, pilasters, or cheek pieces at least three feet high, and the aggregate width of such steps does not exceed twenty percent of that street frontage of the building where such steps are located when such frontage is twenty-five or more feet 10 length, and not more than five feet in width when such frontage is less than twenty-five feet in length.

**(2.4.1.5). §C26-220.0 Rules Governing Projections Beyond the Building Line.-** The powers and duties of the superintendent, the commissioner of parks, or the borough president, within their respective jurisdictions to adopt additional rules as may be necessary With respect to the construction or disposition of parts of structures projecting beyond the building line shall remain unimpaired by the provisions of this article, except that it shall be the duty of the superintendent to adopt additional rules as may be necessary with respect to the construction of all sub-surface constructions within the curb line and all curb-cuts and driveways, the coverings thereof and entrances thereto and the issuance of all permits in reference thereto. The superintendent or the commissioner of parks may, when deemed necessary or desirable fix further restrictions as to the extent of projections beyond the building line, except surface and sub-surface constructions and the coverings thereof within the curb line but the authorization of projections greater than those specified in this article, is unlawful.

## **GROUP 2**

### **Construction Outside Building Line and Within Curb Line**

**(2.4.2.1). §C26-221.0 General Provisions.-**All construction between the building line and the curb line, otherwise unprovided for by law shall conform to the provisions of this article.

**(2.4.2.2). §C26-222.0 Building Construction; Sidewalk Bridges.-**In connection with the erection of any large building, a bridge or bridges not to exceed seven feet in height above the sidewalk and six feet in width extending the entire length of the proposed building may be erected and maintained upon obtaining a permit from the superintendent. Where any such bridge is erected, steps leading from the sidewalk to the bridge may rest on the sidewalk of the adjoining premises.

**(2.4.2.5). §C26-223.0 Hoistway Openings in Sidewalks.-**No opening in the sidewalk area on the street side of the building line, shall be constructed after July first, nineteen hundred fifty-seven, for the accommodation of any elevator or lift, whether manually or power operated, nor for any part thereof. Existing hoistway openings in the sidewalk may be continued but shall not be enlarged, provided such openings are equipped with approved type doors located flush with the sidewalk when closed. Sidewalk elevators in buildings erected before July first, nineteen hundred fifty-seven, may be relocated provided the total number of sidewalk elevators serving the building is not increased. Relocated sidewalk elevators may not project more than five feet from the building line into the sidewalk area.

**(2.4.2.6). §26-224.0 Storm-doors.-**Storm-doors not exceeding ten feet in height, nor more than two feet wider than the doorway or entrance of any building, may be temporarily erected within the building line; providing a permit therefor shall have been obtained from the borough president having jurisdiction; but in no case shall any storm-door extend more than eighteen inches outside the building line. Such structure shall be unlawful if it is practically an extension of the building front or house front, within the building line, or an enlargement of the ground floor of any premises.

**(2.4.2.8). §C26-225.0 Areas; Special Restrictions.-**

a. Every area, existing on January first, nineteen hundred thirty-eight, that is open at the top, shall be enclosed with an iron railing in front, and on the sides where there is an opening used for the purposes of ingress and egress. Such a railing shall be at least three feet high measured from the base and capable of sustaining a lateral weight of three hundred pounds at any part thereof; its gates, if any, shall be so constructed as to open inwardly.

b. The borough president shall have exclusive power to enforce the provisions of this section.

**(2.4.2.9). §C26-226.0 Cellar Steps, Cellar Doors.-**Every entrance or flight of steps, existing on January first, nineteen hundred thirty-eight, and projecting beyond the line of the street and descending into any cellar or basement story of any house or other building, where such entrance or flight of steps shall not be covered, shall be enclosed with a railing on each side, permanently put up, from three to three and one-half feet high, with a gate to open inwardly, or with two iron chains across the front of the entranceway, one near the top and one in the center of the railing, to be closed during the night, unless there be a burning light over the steps, to prevent accidents. Where such entrance is covered by a cellar door, such door shall be kept in good repair, and shall not be permitted to remain open, except when in actual use for ingress or egress of persons or for the loading or unloading of things out of or into such cellar or basement story.

**(2.4.2.12). §C26-227.0 Drains Across Sidewalks.-**

a. It shall be unlawful to construct any drain from any building, structure, enclosure or lot of ground through or under a sidewalk, unless the material or materials, dimensions and construction thereof shall fully conform to standard specifications for such work, all of which shall be prescribed by the superintendent having jurisdiction and kept on file in his office.

b. It shall be unlawful to construct any such drain across the surface of a sidewalk, unless the material or materials, dimensions and construction thereof shall fully conform to standard specifications for such work, all of which shall be prescribed by the borough president having jurisdiction and kept on file in his office.

**(2.4.2.13.1). §C26-228.0 Driveways Across Sidewalks.-**

a. General requirements.

1. It shall be unlawful to lower any curb or change the grade of any sidewalk, for the purpose of providing a driveway across such sidewalk, except upon complying with the following conditions, and upon being granted a permit by the superintendent of the borough within which the curb or sidewalk is located.

2. Application shall be made in writing by the owner of the abutting premises to the superintendent of the borough within which such premises are located. Such application shall set forth the points at which such driveway shall begin and end, as measured from the building line of the first street intersecting such curb or sidewalk.

3. In consideration of the granting of such permit, the superintendent having jurisdiction is hereby authorized to charge a fee of three dollars per linear foot of curb cut, including splay with one-half such fee for private dwelling for the privilege based on the length of curb cut to cover all expenses in connection with the inspection of the alteration of the sidewalk, and its ultimate restoration to original grade.

4. Every such driveway shall be constructed under the supervision and subject to the direction of the superintendent having jurisdiction, and on condition that, upon failure to comply with all the terms of the permit, the privilege may be revoked and the sidewalk be restored to its original grade, at the expense of the person to whom the permit was granted, or his successor in title to the abutting property.

5. Should the vehicular or other use of such driveway, in the opinion of the superintendent having jurisdiction thereof be or become dangerous to pedestrians, such superintendent shall give notice in writing to the owner of record of the abutting premises to discontinue such use of such driveway and to restore, within ten days, such curb and sidewalk to their original or proper condition.

6. The superintendent shall refuse a permit to lower any curb or to change the grade of any sidewalk for the purpose of providing a driveway across such curb or sidewalk, when, in his opinion, the actual or intended use of such driveway would endanger pedestrians.

(2.4.2.13.2). b. Construction-All private driveways crossing sidewalks shall be paved with concrete or other approved materials.

(2.4.2.13.3). c. Maintenance-In case of failure properly to maintain any part of a private driveway that shall not be paved, repaved, or repaired according to the provisions of subdivision b of this section, the superintendent may order in writing that such work be done within the time mentioned in the order. At the expiration of such time the work may be done under the direction of the superintendent and the expenses thereof shall be a lien upon the lot fronting thereon.

**(2.4.2.17). §C26-229.0 Violations.-**Any person who shall violate any of the provisions of this article, sections C26-220.0 through C26-228.0, shall be punished by a fine of fifty dollars for each offense. Any person who shall continue any such violation shall be punished by an additional fine of five dollars for each day such violation shall continue. Any person who shall willfully violate, or neglect or refuse to comply with any provision of this title, or any lawful regulation, order or special direction made thereunder shall be punished by a fine of not more than fifty dollars, or by imprisonment for not exceeding thirty days, or both.

**(2.4.2.18.2). §C26-230.0 Vaults.-**

a. Jurisdiction.-Each superintendent is empowered to issue permits for the construction, maintenance or repair of vaults under sidewalks within his jurisdiction.

(2.4.2.18.3). b. Permits and Restrictions.

1. It shall be unlawful to construct any vault under any sidewalk, between the curb and the building line until a permit for such construction has been issued by the superintendent. The superintendent shall not issue any such permit until a license for such vault has been issued by the borough president.

2. Openings in the roofs of vaults between the building line and curb shall be provided with substantial covers flush in all parts with the sidewalk, of incombustible material, and so constructed and maintained as normally to be kept closed, and to prevent persons from slipping on them. When such openings are uncovered they shall be thoroughly safeguarded.

3. The repair of any wall, or the roof of any vault, or any portion thereof, to make such vault or portion thereof safe shall be permitted in cases where the removal of such vault or such portion thereof has not been ordered by the administrative authority having jurisdiction.

(2.4.2.18.4). c. Responsibility.-The contractor, who shall complete or begin the construction of a vault, and the owner or person for whom the same shall be excavated or constructed shall be severally liable to the provisions, payments and punishments of this article.

d. Construction.

(2.4.2.18.5). 1. All vaults shall be constructed with either brick or other approved masonry walls.

2. All grates of vaults shall be made of iron, the bars of which shall be three-fourths of an inch wide and one-half of an inch thick, and three-fourths of an inch or less apart.

(2.4.2.18.7). e. Violations.-Any person who shall violate any provision of this section, or any notice or special direction issued thereunder, shall be punished by a fine of one hundred dollars.

### **GROUP 3**

#### **Projection Permits Revocable**

**(2.4.3). §C26-231.0 Projection Permits Revocable.**-Any permission, expressed or implied, to construct part of a structure so as to project beyond the building line under the provisions of sections C26-216.0 through C26-234.0 is revocable at will by the councilor the board of estimate.

### **GROUP 4**

#### **Alterations to Projections Beyond the Building Line**

**(2.4.4). §C26-232.0 Alterations to Projections Beyond the Building Line.-**

a. Any alteration or enlargement made to any existing part of a structure, projecting beyond the building line on January first, nineteen hundred thirty-eight, shall conform with the provisions of section C26-216.0 through C26-234.0, so far as such provisions affect new construction.

b. Nothing herein contained shall prohibit the removal of any portion of a single projection beyond the building line without removal of all projections, provided the removal of all projections has not been directed by the council or the board of estimate or their predecessors, nor shall anything herein contained prohibit the repair of any portion of such projection necessary to make it safe.

### **GROUP 5**

#### **Existing Encroachments Beyond the Building Line**

**(2.4.5). §C26-233.0 Existing Encroachments Beyond the Building Line.-**

a. Such parts of structures as project beyond the building line on January first, nineteen hundred thirty-eight, may be maintained as constructed until their removal is directed by the councilor the board of estimate, provided the right of the city or any of its officers to continue an action for the removal of any unauthorized projection beyond the building line or for the collection of any penalty, incurred before January first, nineteen hundred thirty-eight, in connection therewith remains unabridged.

b. With the concurrence of the borough president having jurisdiction, the commissioner of housing and buildings, and/or each superintendent having jurisdiction, may, in his discretion, permit rearrangement or reconstruction of such parts of structures as project beyond the building line provided such rearrangement or reconstruction is within the limits of existing projection and provided further that the right of the city or any of its officers to continue an action for the removal of any unauthorized projection beyond the building line or for the collection of any penalty incurred before January 1st, nineteen hundred thirty-eight, in connection therewith remains unabridged.

## **GROUP 6**

**Effect of Action by the Board of Estimate on Projections Beyond the Building Line (2.4.6). §C26-234.0 Effect of Action by the Board of Estimate on Projection Beyond the Building Line.**-The provisions of sections C26-216.0 through C26-234.0, do not authorize any projection beyond the building line on those streets where the removal of projections has been or may be directed by the board of estimate, except in conformity to resolutions by such board of estimate, or has been previously directed by the former board of estimate and apportionment.