

WHITE PLAINS BUILDING CODE—ADMINISTRATION AND ENFORCEMENT

The White Plains Supplemental Building Code promulgated pursuant to Section 238-t of the White Plains City Charter, as amended, when combined with the New York State Building, Fire, Mechanical, Property Maintenance, Plumbing, Energy, Fuel Gas and Residential Codes, shall be known and may be cited as the "The White Plains Supplemental Building Code", and is hereinafter referred to as "this Code" or "the Code".

The White Plains Supplemental Building Code is comprised of a series of individual codes. These codes include The White Plains Building Code—Administration and Enforcement, The White Plains General Construction Code, The White Plains Mechanical Code, The White Plains Electrical Code, The White Plains Fire Code, The White Plains Smoke Control Code, The White Plains Plumbing Code, The White Plains Vertical Transportation Code and The White Plains Property Maintenance Code.

a. Matters Covered.

- (1) **Building Matters Covered.** The provisions of this Code shall cover all matters affecting or relating to buildings and shall extend to excavation and fill operations and to all types of buildings and structures and their appurtenant constructions, including vaults, signs, projections, and accessory additions, together with all surface and subsurface construction within the curb line, including driveways, the coverings thereof and entrances thereto, except as provided in WPBCAE-a(2).
- (2) **Exemptions.** No building or structure shall be constructed, extended, repaired, removed or altered in violation of these provisions, except for ordinary repairs as defined in Chapter K3 of the New York State Code and its parts and except further that the raising or lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted, provided the building is not otherwise altered or its use or occupancy changed.
- (3) **Matters Not Provided For.** Any matter or requirement essential for the fire or structural safety of a new or existing building or for the safety or health of the occupants or users thereof or the public, and which is not specifically covered by the provisions of this Code or other applicable laws or regulations, shall be the subject of determination by the Commissioner in specific cases.
- (4) **Zoning Restrictions.** When the provisions herein specified for structural, fire and sanitary safety are more restrictive than the zoning ordinance, this Code shall control the erection or alteration of buildings in respect to location, use, permissible area and height; but in any case, the most rigid requirements of either the building code or the zoning ordinance of the city shall apply whenever they may be in conflict.
- (5) **New Work.** No general excavations, filling or grading shall be performed nor shall any wall, structure or building hereafter be constructed, altered, repaired, or removed, except in conformity with the provisions of this Code.

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b. **Installation of Service Equipment.**

- (1) **Approval Required.** No mechanical equipment, including elevators, escalators, dumbwaiters, heating equipment, refrigerating equipment, ventilating or air conditioning equipment, plumbing, fire protection, electrical equipment/wiring, or any other service equipment, device or appliance shall be installed, replaced or otherwise remodeled except in conformity with the provisions of this Code or the State of New York Codes, or other ordinance or rule or regulation authorized by law. It shall be unlawful to use such equipment until accepted and authorized for such use by the Commissioner.

c. **Maintenance.**

- (1) **General Maintenance.** All buildings and structures and all parts thereof, both existing and new, shall be maintained in a safe and sanitary condition. All service equipment, means of egress, devices and safeguards which are required by this Code or The New York State Codes in a building, or which were required by a previous statute in a building when erected, altered or repaired, shall be maintained in good working order.
- (2) **Service Equipment.** Any service equipment, device or appliance that may be or shall at any time become unsafe or dangerous shall be made safe and secure, taken down, or replaced in conformity with the provisions of this Code, or other ordinance, rule or regulation authorized by law, or shall be removed.
- (3) **Owner Responsibility.** The owner or the owner's designated agent shall be responsible for the safe and sanitary maintenance of the building or structure and its exit facilities at all times.

d. **Continuation and Change in Existing Use.**

- (1) **Continuation of Existing Use.** The legal use and occupancy of any structure existing on the effective date of the adoption of this Code or for which it had been heretofore approved, may be continued without change, except as may be specifically covered in this Code or may be deemed necessary by the Commissioner for the general safety and welfare of the occupants and the public.
- (2) **Change in Use.** It shall be unlawful to make any change in the use or occupancy of any structure or premises which would subject it to any special provision of this Code without approval of the Commissioner and certification that such structure meets the intent of the provisions of law governing building construction for the proposed new use and occupancy and that such change does not result in any greater hazard to public safety or welfare.
- (3) **Continuation of Unlawful Use.** The continuation of occupancy or use of a building or structure, or of a part thereof, contrary to the provisions of this Code, shall be deemed a violation and subject to the penalties prescribed in WPBCAE-hh.

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e. **Enforcement.**

- (1) **Enforcing Authority.** The provisions of this Code or other ordinance or rules or regulations legally authorized thereunder shall be enforced by the Commissioner of Building or the Commissioner of Building's duly authorized representative. For such purposes enforcing authority shall be vested with the powers of a police officer.
- (2) **Relief From Personal Responsibility.** Any officer or employee charged with the enforcement of this Code while acting for the city, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed in the lawful discharge of the officer or employee's duties and under the provisions of this Code shall be defended by the City of White Plains or its representative until the final termination of the proceedings. In no case shall the Commissioner or any of the Commissioner's subordinates be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of this Code and any officer of the Department of Building, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of the official duties in connection therewith.
- (3) **Official Records.** An official record shall be kept of all business and activities of the department specified in the provisions of this Code, and all such records shall be open to public inspection at all appropriate times.
- (4) **Copying Records.** Plans, specifications and such other data filed with the Commissioner, for the purpose of obtaining a permit, may be examined in the office of the Commissioner, but may not be removed therefrom, nor copied, except as provided in Section WPBCAE-e(5); except by a duly executed subpoena, or by the consent of the Commissioner of Building for the use of a department of the City of White Plains.
- (5) **Reproduction of Plans.** The owner or lessee of a building or structure for which plans are on file in the Department of Building or such individual as may be authorized in writing by said owner or lessee, may obtain copies of such plans upon written signed request to the Commissioner and upon the advance payment of the prescribed fee.

f. **Duties and Powers of Building Commissioner.** The Building Commissioner shall enforce all the provisions of this Code and shall act on any question relative to the mode or manner of construction and the materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of service equipment, and the location, use, occupancy, and maintenance of all buildings, structures, and premises, except as may otherwise be specifically provided for by statutory requirements or as herein provided.

- (1) **Applications and Permits.** The Commissioner shall receive applications and issue permits for the erection and alteration of buildings and structures, and examine the premises for which such permits have been issued and enforce compliance with the provisions of this Code.

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- (2) **Building Notices and Orders.** The Commissioner shall issue all necessary notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction, to require adequate exit facilities in existing buildings and structures, and to insure compliance with all the Code requirements for the safety, health and general welfare of the public.
- (3) **Inspections.** The Commissioner shall make all the required inspections, or may accept reports of inspection of authoritative and recognized services or individuals, and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual; or the Commissioner may engage such expert opinion as may be deemed necessary to report upon unusual technical issues that may arise, subject to the approval of the Common Council.
- (4) **Research and Investigation.** The Commissioner shall make or cause to be made investigations of new developments in the building industry, subject to local climatic or other conditions, and shall accredit tests meeting the functional requirements of this Code conducted by accredited authoritative agencies, or duly authenticated reports may be accepted from the International Code Council (ICC), International Conference of Building Officials (ICBO), or from other recognized authoritative sources of all new materials and methods of construction proposed for use which are not specifically provided for in this Code. The costs of all tests or other investigations required under these provisions shall be paid by the applicant.
- (5) **New Rules.** The Commissioner shall promulgate rules under the procedure provided in Section WPBCAE-g(1) establishing the conditions for use of new materials consistent with the provisions of this Code and with minimum requirements based on accepted engineering practice.
- (6) **Department Records.** The Commissioner shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. File copies of all papers in connection with building operations shall be retained in the official records so long as the building or structure to which they relate remains in existence.
- (7) **Annual Report.** At least annually, he shall submit to the Mayor and Common Council of the city a written statement of all permits and certificates issued.
- (8) **Forms.** The Commissioner may prescribe such forms for compliance with this Code as may be necessary.

g. Rules and Regulations.

- (1) **Rule Making Authority.** The Commissioner of Building shall have power as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this Code to secure the intent thereof and to designate the requirements applicable because

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of local climatic or other conditions; but no such rules shall have the effect of waiving working stresses or fire-resistive requirements specifically provided in this Code or of violating accepted engineering practice involving public safety.

- (2) **Accepted Engineering Practice.** In the absence of approved rules, the regulations, specifications and standards listed in the referenced standards section of the New York State Codes shall be deemed to represent accepted engineering practice in respect to the material, equipment, system or method of construction therein specified.
- (3) **Rules.** Such rules and regulations shall be submitted to the Common Council by the Commissioner. Failure of the Common Council to approve, reject or modify such rules and regulations within forty-five (45) days after submission shall be deemed to constitute approval thereof. Said rules and regulations, as approved by the Common Council, shall be on file in the Department of Building and available as a matter of public record.
- (4) **Amendment of Rules.** All rules adopted by the procedure herein established shall have the same effect as provisions of this Code; but such rules may be amended or repealed at any time by the same procedure herein prescribed for their adoption.

h. **Variations or Modifications of the Code.**

- (1) **Variations.** The requirements and standards prescribed in this Code shall be subject to variation in specific cases by the Building Code Appeals Committee pursuant to the provisions of WPBCAE-h(2) when there are demonstrated practical difficulties or hardships involved in carrying out any provisions of the Code or an approved rule, provided that the spirit and intent of the law shall be observed and public welfare and safety assured.
- (2) **Applications for Variations.** The application for a variance shall be in writing and shall be officially recorded with the Appeals Committee resolutions and the application for permit in the permanent records of the Building Department.

i. **Equivalent Facilitation.** Nothing in this Code is intended to prevent the use of designs or technologies as alternatives to those prescribed in this Code provided they result in substantially equivalent or greater construction, performance etc. The applicant shall provide all technical information requested by the Commissioner so the equivalent facilitations can be evaluated. The Commissioner reserves the right to approve or disapprove any submission at his/her discretion.

j. **Inspection.**

- (1) **General Inspections.** Before issuing a permit, the Commissioner shall examine or cause to be examined as deemed necessary all buildings, structures and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof; and shall conduct such inspections from time to

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time during and upon completion of the work for which a permit has been issued; and shall maintain a record of all such examinations and inspections and of all violations of this Code.

- (2) **Mandatory Inspections.** The following minimum quantity of inspections shall be made in all buildings:
 - (i) **Foundation Inspection.** To be made after footing trenches are excavated and the necessary forms erected.
 - (ii) **Mechanical, Plumbing, Fire Protection and Electrical Inspection.** To be made after all pipes, ducts, and wiring are in place.
 - (iii) **Frame and Masonry Inspection.** To be made after all framing, masonry walls, electrical, mechanical, firestopping and bracing is in place.
 - (iv) **Insulation Inspection.** To be made after all required insulation is in place.
 - (v) **Final Inspection.** To be made after structure is complete.
- (3) **Other Structures.** In addition to the inspection requirements of WPBCAE-j(2), in structures requiring continuous inspection due to the construction advancing in successive stages, the reinforcing steel and/or structural steel of any part of any wall, building or structure shall not be covered or concealed in any manner without first being inspected and accepted by the Commissioner or the Commissioner's representative.
- (4) **All Structures.** No mechanical, plumbing or electrical installation shall be covered or concealed in any manner whatsoever without first being inspected and accepted by the enforcing authority.
- (5) **Request for Inspections.** It shall be unlawful to proceed with work on any part of any wall, building or structure beyond the point indicated in this section, or to otherwise cover any wall or ceiling of any building or structure until the Commissioner has been notified and approval given to do so. The Commissioner shall act upon all requests for inspections as soon as practicable, and generally within forty-eight (48) hours.
- (6) **Contractor to Be Present.** The contractor responsible for the work to be inspected, or a responsible representative of the contractor, shall be present at each mandatory inspection.
- (7) **Accredited Inspection Services.** The Commissioner may accept reports of building department inspectors or of approved inspection services or individuals which satisfy all requirements as to qualifications and reliability.
- (8) **Plant Inspection.** When required by the provisions of this Code or by the approved rules, materials or assemblies shall be inspected at the point of manufacture or fabrication.
- (9) **Inspection Reports.** All inspection reports shall be in writing and shall be certified by the licensed authority, or responsible officer of the service, or the individual when

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expert inspection services are accepted. A label or mark of approval permanently fixed to the product indicating that factory inspection has been made shall be accepted in lieu of the foresaid report in writing.

- (10) **Final Inspection.** Upon completion of the building, structure or facility, and before issuance of the Certificate of Use and Occupancy, a final inspection shall be made and violations of the approved plans and permit shall be noted and the holder of the permit shall be notified of the discrepancies. The holder of the permit shall be responsible to request such final inspection.

k. **Right of Entry.** In the discharge of his duties, the Commissioner or his authorized representative shall have the authority to enter at any reasonable hours any buildings, structure or premises in the municipality to enforce the provision of this Code.

- (1) **Official Badge.** The Commissioner may adopt a badge or identification card of office for use by the Commissioner and the Commissioner's assistants which shall be displayed for the purpose of identification.
- (2) **Municipal Cooperation.** The assistance and cooperation of the police, fire, and health departments and all other municipal officials shall be available to the Commissioner as required in the performance of said duties.

1. **Application for Permit.**

- (1) **Permit Required.** No excavation, construction, addition, repair, alteration, removal or demolition shall be commenced; nor shall any topsoil, earth, gravel, or any other substance be removed from or added to the premises; nor shall the location, occupancy, use or maintenance of any wall, building or structure be changed; nor shall any engine or generator be installed, nor any steam/hot water boiler, furnace, heater, incinerator, or other heat producing apparatus be installed; nor shall any installation, repairs or alterations be made to any plumbing, gas piping, electric wiring, elevators, refrigeration, air conditioning, ductwork, or fire-suppression equipment, the installation of which is regulated by this Code until a permit for the same shall have been applied for and obtained from the Commissioner; except that ordinary repairs as defined in Chapter K3 of the New York State Code which do not involve any violation of this Code shall be exempt from this provision.
- (2) **Forms of Application.** The application for a permit shall be submitted in such form as the Commissioner may prescribe and shall be accompanied by the required fee.
- (3) **By Whom Application is Made.**
 - (i) **General Case.** Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner "in fee," it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner "in fee" and that the applicant is

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authorized to make such application. The full names and addresses of the owner, lessee, applicant, and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

- (ii) **Utility Service.** Separate applications shall be filed and separate permits obtained for underground structures, to be installed for public utility service, between the building line, as defined in the zoning ordinance, and the property line. Such application shall contain an agreement by the applicant (which shall be a public utility company) to raise or lower the structure and to support any curbing, paving, sidewalk or driveway at no expense to the city, if the city shall require such changes for public improvements.
 - (iii) **Service Equipment.** Separate applications shall be made and separate permits shall be obtained for all service equipment installation as required by this Code.
- (4) **Description of Work.** The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building, and such additional information as may be required by the Commissioner.
- (5) **Plans and Specifications.** The application for the permit shall be accompanied by not less than three (3) copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to this Code, specific information shall be given to establish such quality; and in no case shall the Code be cited or the term "legal" or its equivalent be used as a substitute for specific information. The Commissioner may waive the requirement for filing plans when the work involved is of a minor nature.
- (i) **Arrangement of Exitways.** The plans shall show in sufficient detail the location, construction, size and character of all exitways together with the arrangement of aisles, corridors, passageways and hallways leading thereto in compliance with the provisions of this Code.
 - (ii) **Number of Occupants.** In other than one- and two-family dwellings, the plans and the application for permit shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces when required by the building official. When not otherwise specified, the minimum number of occupants to be accommodated by the exitways shall be determined as outlined in Section 1003 of The New York State Building Code. The posted occupancy load of the building shall be limited to that number.
- (6) **Plot Diagram.** There shall be filed also a plot plan showing to scale the size and location of all the new construction, drives and parking areas, and all existing structures on the site, distances from lot lines and the established street grades and utilities; and it shall be drawn in accordance with an accurate boundary line survey. In

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the case of demolition, the plot plans shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site or plot and the location of discontinued services.

- (7) **Engineering Details.** The Commissioner may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design and shall be accompanied by an affidavit signed by the architect or engineer who prepared the plans, certifying that they comply with the requirements of this Code and that the architect or engineer is authorized by the owner to make the application, and shall state clearly whether or not the construction is to be supervised by the architect or engineer.
- (8) **Amendments to Application.** Subject to the limitations of Section WPBCAE-I(9) amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed part of the original application and shall be filed therewith.
- (9) **Time Limitation of Application.** An application for a permit for any proposed work shall be deemed to have been abandoned six (6) months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued, except that for reasonable cause, the Commissioner may grant one or more extensions of time for additional periods not exceeding ninety (90) days each.

m. **Permits.**

- (1) **Action on Application.** The Building Commissioner shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. When an application is for a structure to be located between the building line and the street property line, the Commissioner shall consult with the Commissioner of Public Works before issuing the permit. If the application or plans do not conform to the requirements of all pertinent laws, the Commissioner shall reject such application in writing stating the reason therefor. If the Commissioner is satisfied that the proposed work conforms to the requirements of this Code and all laws and ordinances applicable thereto, a permit shall be issued therefore as soon as practicable.
- (2) **Suspension of Permit.** Any permit issued shall become invalid if the authorized work is not commenced within six (6) months after its issuance, or if the work is suspended or abandoned for a period of six (6) months after the time of commencing; provided, that for cause, one or more extensions of time, for periods not exceeding 90 days each, may be allowed in writing by the Commissioner.
- (3) **Previous Permits.** Nothing in this Code shall require changes in the plans, construction or designated use of a building for which a lawful permit has been

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theretofore issued or otherwise lawfully authorized and the construction of which shall have been actively prosecuted within ninety (90) days after the effective date of this ordinance, unless so stated.

- (4) **Signature to Permit.** The Commissioner's signature shall be attached to every permit; or a subordinate may be authorized to affix such signature thereto.
- (5) **Reviewed Plans.** The Commissioner shall stamp or endorse in writing all sets of reviewed plans, and one set of such plans shall be retained by the Commissioner and one set shall be kept at the building site, open to inspection of the building official or the building official's authorized representative at all reasonable times.
- (6) **Revocation of Permits.** The Commissioner may revoke a permit or approval issued under the provisions of this Code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.
- (7) **Authorization in Part.** The Commissioner may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this Code. The holder of such permit for the foundation or other part of a building or structure shall proceed at the permit holders own risk with the building operation and without assurance that a permit for the entire structure will be granted.
- (8) **Posting of Permit and Site Plans.** A true copy of the building permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of the same. Where separate permits are required for mechanical, plumbing, or electrical work, true copies of such permits shall also be kept on the site of operations open to public inspection until final authorization is obtained.
- (9) **Notice of Start.** At least twenty-four (24) hours notice of start of work under a building permit shall be given to the Commissioner.

n. **Conditions of Permit.**

- (1) **Payment of Fees.** No permit shall be issued until the fees prescribed in Section WPBCAE-q have been paid.
- (2) **Compliance with Code.** The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this Code, except as specifically stipulated by a legally granted variation recorded with the application. The issuance of a permit shall not prevent the Commissioner from thereafter requiring a correction of errors in plans or in construction, or of violations of this Code.
- (3) **Compliance with Permit.** All work shall conform to the approved application and plans for which the permit has been issued and any approved amendment thereto.

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- (4) **Compliance with Plot Plan.** All new work shall be strictly in accordance with the approved plot plan and site plan.
- (5) **Change in Plot Plan.** No lot or plot shall be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved; except that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.
- (6) **Abandoning Work.** Work started under the provisions of this Code shall be completed with reasonable expedience. Should such work be stopped or abandoned the completed portion shall be left in a safe and secure condition. In the event the person or persons, firm, corporation or partnership responsible for such stoppage or abandonment shall fail to comply with this requirement, the administering authority shall proceed, after legal notice, to employ such labor and materials necessary to put the work in a safe condition. The cost of such labor and materials shall become a lien on the premises, and shall be collected as provided by law.
- (7) **Foundation and Final Surveys.** Prior to construction of super-structure, an as-built survey, showing the completed foundation and all building setbacks, shall be submitted to the Department of Building. Prior to issuance of a Certificate of Occupancy, a survey showing the completed structure and all building setbacks shall be submitted to the Department of Buildings.

o. Demolition of Buildings.

- (1) **Service Connections.** Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building such as water, electric, gas, sewer and other connections. A permit to demolish or remove a building shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

p. Removal of Buildings.

- (1) **Notice to Adjoining Owners.** Only when written notice has been given by the applicant to the owners of adjoining lots and to the owners of wired or other facilities, of which the temporary removal may be necessitated by the proposed work, shall a permit be granted for the removal of a building or structure.
- (2) **Lot Regulation.** Whenever a building is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the provisions of Section the White Plains General Construction Code.

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q. **Fees.** Any person desiring a building permit shall at the time of filing an application therefor, as provided in Section WPBCAE-1 pay to the Commissioner a fee as required in this section. In all cases fees for permits shall be paid for by the applicant. Twenty (20) percent of the total fee shall accompany the application for an approval of plans or other description or indication of construction work; the remainder of the fee shall be paid before the construction permit may be issued.

Fees shall be prescribed as follows:

- (1) **Special Fees.** The payment of the fee for the construction, alteration, removal or demolition and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, electrical permits, plumbing permits, erection of signs and display structures, or other appurtenant structures, or fees for inspections, Certificates of Use and Occupancy or other privileges or requirements, both within and without the jurisdiction of the Department of Building.
- (2) **Fees:**
 - (i) **One and Two Family Dwellings—New Construction and Additions. (Volume Added)** The prescribed fees for permits for new buildings and additions increasing the volume of existing one and two family buildings shall be basically as follows, depending on the cubic feet of volume of the proposed structure:
 - (I) One hundred ten dollars (\$110.00) for any building volume up to and including the first 5,000 cubic feet.
 - (II) Ten dollars (\$10.00) additional per 1,000 cubic feet or fraction thereof, for any building volume in excess of 5,000 cubic feet.

Note: For new dwellings a minimum fee of \$750.00 shall apply.
 - (ii) **One and Two Family Dwellings—Alterations (No Volume Added); Demolition; Mechanical Installations; Heating, Ventilating and Air Conditioning; and Fire Suppression Systems.** The prescribed fees shall be based upon the estimated cost of construction certified to by the applicant as follows:
 - (I) One hundred dollars (\$100.00) for up to and including the first \$1,000.00 of construction cost.
 - (II) Ten dollars (\$10.00) additional for each \$1,000.00 or any part thereof.
 - (iii) **One and Two Family Dwellings—Plumbing Systems.** The prescribed fees for plumbing systems shall be based upon the estimated cost of construction certified to by the applicant as follows:
 - (I) Thirty dollars (\$30.00) for up to and including the first \$1,000.00 of construction cost.
 - (II) Thirty dollars (\$30.00) additional for each \$1,000.00 or any part thereof.

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- (iv) **One and Two Family Dwellings—Electrical Permits.** The filing fee for permits for installation of any wiring system or electrical equipment, or for any alteration or addition to any such existing installations, shall be:
 - (I) Twenty dollars (\$20.00) for any permit for a one- or two-family house.
- (v) **All Buildings (Other Than One and Two Family Dwellings)—Demolition; New Construction; Additions; Alterations; Paving; Scaffolding; Mechanical Installations; Heating, Ventilating; Air Conditioning; and Fire Suppression Systems.** The prescribed fees shall be based upon the estimated cost of construction certified to by the applicant as follows:
 - (I) One hundred dollars (\$100.00) for up to and including the first \$1,000.00 of construction cost.
 - (II) Fifteen dollars (\$15.00) additional for each \$1,000.00 or any part thereof.
- (vi) **All Buildings (Other Than One and Two Family Dwellings)—Plumbing Systems.** The prescribed fees for plumbing systems shall be based upon the estimated cost of construction certified to by the applicant as follows:
 - (I) Fifty dollars (\$50.00) for up to and including the first \$1,000.00 of construction cost.
 - (II) Thirty dollars (\$30.00) additional for each \$1,000.00 or any part thereof.
- (vii) **All Buildings (Other Than One and Two Family Dwellings)—Electrical Permits.** The filing fee for permits for installation of any wiring system or electrical equipment, or for any alteration or addition to any such existing installations, shall be:
 - (I) Fifty dollars (\$50.00) for any permit for other than a one- or two-family house.
- (viii) **Boiler Certificates.** The prescribed fee for boiler certificates shall be as follows:
 - (I.) External inspection filing and certificate processing—Fifty dollars (\$50.00) per boiler, per location.

Multiple boilers connected to a common header or separate systems owned or leased by the same party and located in the same building with a combined input of 300,000 BTU/hour or less—Thirty dollars (\$30.00) per location and \$100.00 inspection fee.
 - (II) Internal inspection filing and certification—Seventy-five dollars (\$75.00) per boiler.

** Boiler inspection fees not paid within thirty (30) days shall be increased by one-half (1/2) of the original amount.
- (ix) **Vertical Transportation Inspection.** The annual inspection fee for vertical transportation and related equipment shall be the following:
 - (I) (a) Traction and drum elevators, hydraulic elevators and escalators: Two hundred seventy-five dollars (\$275.00).
 - (b) Dumbwaiters, conveyors, sidewalk elevators and casket lifts: Sixty-five dollars (\$65.00).

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- (c) Auto lifts and miscellaneous hoisting equipment: forty-five dollars (\$45.00).
- (II) The annual elevator inspection fee shall be due and payable as of the first of July in each calendar year and paid within thirty (30) days.
 - ** Vertical transportation inspection fees not paid within thirty (30) days shall be increased by one-half ($\frac{1}{2}$) of the original amount.
- (x) **Grease Duct Certificates.** The prescribed fee for grease duct certificates shall be fifty dollars (\$50.00) per year, per system.
 - ** Grease duct certificate fees not paid within thirty (30) days of due date shall be increased by one-half ($\frac{1}{2}$) of the original amount.
- (xi) **Smoke Purge/Control Certificates.** The prescribed fee for smoke purge/control certificates shall be fifty dollars (\$50.00) per year, per system.
- (xii) **Temporary Structures.** The fee for a permit for any temporary structure such as a reviewing stand, tent, etc., shall be fifty dollars (\$50.00).
- (xiii) **For Excavation, Grading or Filling.** For excavation or grading other than for construction of walls, buildings, and parts thereof, the prescribed fee shall be one hundred dollars (\$100.00).
- (xiv) **Hoisting.**
 - (I) The prescribed fee for a license for a person or corporation generally engaged in the hoisting business as described in WPGCC-1a(14) of this Code shall be one hundred dollars (\$100.00) per calendar year.
 - (II) The prescribed fee for a special hoisting permit for a specific location, shall be one hundred dollars (\$100.00) per permit.
- (xvi) **Outdoor Signs and Awnings.** The prescribed fee for each outdoor sign and awning shall be as follows:
 - I. New installation and repair:
 - a) Wall or ground sign—Fifty dollars (\$50.00) per sign plus \$2.00 per sq. ft. of sign display surface.
 - b) Awning or canopy—Twenty-five dollars (\$25.00) per awning or canopy.
 - c) Bunting—Fifty dollars (\$50.00) per bunting.
 - II. Annual inspection:
 - a) Wall or ground sign—Fifty dollars (\$50.00) per sign.
 - b) Roof sign—One hundred dollars (\$100.00) per sign.
 - c) Awning or canopy—Twenty-five dollars (\$25.00) per awning or canopy.
- (xvi) **Operating Engineers License.** The prescribed fee for operating engineers license's shall be as follows:
 - (I) Initial examine/license fee—One hundred dollars (\$100.00).
 - (II) Subsequent examinations (if required)—Fifty dollars (\$50.00)/exam.

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- (III) Annual renewal—Fifty dollars (\$50.00).
- (xvii) **Weekend or Overtime Inspections.** Where inspections are mandated for any work performed under permit, as required in this Code; and where such inspection(s) must, due to special circumstances as approved by the Commissioner of Building, be done after regular work hours of the Department of Building, on weekends, or on legal holidays of the City of White Plains, the fee for such inspection shall be based upon the inspectors hourly wage \times 1.5.
- (xviii) **Stop work order.** If a "stop work" order has been issued on a project, the fee to lift the "stop work" order is \$500.00 per trade cited. This is in addition to any permit fees which may apply.
- (xix) **Refunds.** If an application for a permit has been withdrawn by the applicant, the applicant may submit a refund claim to the City of White Plains and upon approval of the claim by the Commissioner of Building, may obtain a refund of a portion of the fee paid as follows:
- (I) All but ten dollars (\$10.00) of the fee paid if application is withdrawn prior to the commencement of examination of the application.
 - (II) 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 Commissioner of Finance thirty (30) percent of the total computed fee.
- (xx) **Adjustment of Fees Based on Estimated Cost.** The fee shall be adjusted at the completion of all work for which the fee was based on an estimated cost. The final fee in such case shall be based on the affidavit of cost required by WPBC-q(2)(xxiii)(v). The owner or applicant shall pay the difference between the original fee paid and the fee computed on such actual cost. In case the actual cost is less than the original estimated cost, a refund of the difference shall be made to the person or concern depositing the original fee.
- (xxi) **Search of Records.** The fee for a requested search of official records maintained by the Department of Building, limited to Certificates of Occupancy, legal occupancy determinations, notices of violation, and retrieval of drawings shall be:
- (I) For one- and two-family dwellings, and vacant lots, eight dollars (\$8.00) per location.
 - (II) For all other types of occupancies and uses: twenty dollars (\$20.00) per location.
 - (III) Additional fees shall be charged for requested copies of records or drawings.
- Exception:** A bonafide owner of a property/structure is not required to pay this fee.

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- (xxii) **Copying Plans.** The fee payable to the City in advance for reproducing plans shall be a minimum charge of five dollars (\$5.00) per sheet for prints up to 24" x 36" and six dollars (\$6.00) per sheet for larger prints. The fee payable to the City for reproduction of microfilm shall be three dollars (\$3.00) per reproduced sheet.
- (xxiii) **Valuation and Volume Computation.** For the determination of the permit fees, the volume of the structure and its estimated cost shall be computed and indicated by the applicant as herein provided.
- (I) **Structures with Basements.** The volume of the building shall include all enclosed dormers, porches, penthouses and other enclosed portions of the structure extending from the basement or cellar floor to the mean height of a pitched roof, or to the average height of the top of the roof beams of a flat roof. All measurements shall be taken from the exterior surface of the building.
- (II) **Structures without Basements.** For buildings without basements or cellars, the volume shall be based on the height measured to a level located one-fifth ($\frac{1}{5}$) the distance from the first floor level to the bottom of the footings, but not to exceed two and one-half ($2\frac{1}{2}$) feet below the first floor level).
- (III) **Open Sheds.** For open sheds and structures of a similar character, the volume shall be measured within the perimeter of the roof for a height from the grade line to the mean roof level.
- (IV) **Estimated Cost.** The term "Estimated Cost" means the current value of all services, labor, materials, construction, equipment, rental and service equipment installations; but not including costs of such grading, decorating or other work intended primarily for appearance or embellishment, and which is not necessary for the safe and lawful use of the building or structure.
- (V) **Affidavit of Cost.** At the completion of the work, the owner shall file a sworn affidavit of the actual cost to the owner of the work, except that the Commissioner may waive such affidavit for any work for which the estimated cost is less than one thousand and 00/100 (\$1,000.00) dollars. Such affidavit of cost shall be required whether the fee was computed originally based on volume or based on the estimated cost of construction.
- (VI) **Proof of Costs.** The Commissioner may require proof of the accuracy of the cost stated in the required affidavit and in case such proof is not produced may, at the owner's expense, have an appraisal made by competent appraisers and may, where the fee is based on cost, compute such fee on such appraised valuation.
- (xxiv) **Amended Plans,** An additional fee for resubmission of amended or revised plans shall be charged at a rate of \$50.00 per submission for a one- and two-family residence and \$100.00 per submission for other than a one- and two-family residence.

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r. **Performance and Indemnity Bonds.**

- (1) **Excavation and Grading.** Before the issuing of a permit for any excavation other than for construction of walls, buildings, and any part thereof, or before the removal of any topsoil, sand, gravel, rock or earth or other substance from any premises, the applicant for a permit shall execute and file with the city clerk a bond, approved by the Corporation Counsel, in the sum of not less than five thousand dollars (\$5,000.00), or in such increased amounts as the commissioner may deem necessary, issued by a surety company or surety, conditioned for the faithful performance of all of the conditions of the building code, the observance of all other municipal ordinances, and to indemnify The City of White Plains for any damage to its property.

s. **Certification of Use and Occupancy.**

- (1) **New Buildings.** No building hereafter erected shall be used or occupied in whole or in part until the Certificate of Use and Occupancy shall have been issued by the Commissioner pursuant to this Section and WPBCAE-gg(2).
- (2) **Buildings Hereafter Altered.** No building hereafter enlarged, extended or altered to change from one use group to another, in whole or in part, and no building hereafter altered for which a Certificate of Use and Occupancy has not been heretofore issued, shall be occupied or used until the certificate shall have been issued by the Commissioner, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work of alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the Commissioner.
- (3) **Existing Buildings.** Upon written request from the owner of an existing building, the Commissioner shall issue a Substitute Certificate of Use and Occupancy, provided there are no violations of law or orders of the commissioner pending, and it is established after inspection and investigation that the alleged use of the building has heretofore legally existed. Nothing in this Code shall require the removal, alteration or abandonment of, or prevent the continuance of the use and occupancy of a lawfully existing building, unless such use is deemed to endanger public safety and welfare.
- (4) **Changes in Use and Occupancy.** After a change of use has been made in a building, the re-establishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless all the applicable provisions of this Code are complied with. A change from one prohibited use, for which a permit has been granted, to another prohibited use shall be deemed a violation of this Code.
- (5) **Temporary Occupancy.** Upon the request of a holder of a permit, the Commissioner may issue a temporary Certificate of Occupancy for a building or structure or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building without endangering life or public welfare.

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- (6) **Contents of Certificate.** When a building or structure is entitled thereto, the Commissioner shall issue a Certificate of Use and Occupancy within ten (10) days after written applications. This certificate shall certify legal use and occupancy and the purpose(s) for which the building or structure may be used in its several parts. The Certificate of Use and Occupancy shall specify: the use group, the fire grading, the maximum live load on all floors, the occupancy load in the building and all parts thereof, and any special stipulations and conditions of the building permit.

t. Posting Buildings.

- (1) **Posted Use and Occupancy.** Every building and structure and part thereof designed for high hazard, storage, mercantile, industrial or business use as defined shall be posted by the owner with a suitably designed placard in a form designated by the Commissioner, which shall be securely fastened to the structure in a readily visible place, stating: the use group, the fire grading, the live load and the occupancy load.
- (2) **Posted Occupancy Load.** Every building and structure and part thereof designed for use as a place of public assembly shall be posted with an approved placard designating the maximum occupancy load.
- (3) **Periodic Inspection.** The building official may periodically inspect all existing buildings and structures except one- and two-family dwellings, for compliance with the law with respect to posting; or a report of such inspection may be accepted from an authorized licensed professional engineer or architect; and such inspection and report shall specify any violations of the requirements of the Code with respect to the posting of floor load, fire grading, occupancy load and use group of the building.

u. Violations.

- (1) **Notice of Violation.** The Commissioner shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, use or occupancy of a building or structure in violation of the provisions of this Code, or in violation of a permit or certificate issued under the provisions of this Code; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. Such notice shall be deemed to be properly served upon such owner, agent, tenant or person responsible, if a copy is personally served; or if a copy thereof is sent by registered or certified mail, return receipt requested, to the last known address of such person; or if a copy is posted in a conspicuous place in or about the building, structure, or premises affected by the notice and if a copy is mailed by registered or certified mail on the same day it is posted to the owner, agent, tenant or person responsible; or by such other method authorized by the laws of the State of New York.
- (2) **Prosecution of Violation.** If the notice of violation is not complied with promptly, the Commissioner shall request the Corporation Counsel to institute the appropriate

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proceeding at law or in equity to restrain, correct or abate such violation or to required the removal or termination of the unlawful use of the building or structure in violation of the provisions of this Code or of the order or direction made pursuant thereto.

- (3) **Violation Penalties.** Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Commissioner, or of a permit or certificate issued under the provisions of this Code, shall be liable to a fine as prescribed in Section WPBCAE-hh.
- (4) **Abatement of Violation.** The imposition of the penalties prescribed in Section WPBCAE-hh shall not preclude the Corporation Counsel from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or use of a building or structure in or about any premises.

v. Stop-Work Order.

- (1) **Notice to Owner.** Upon notice from the Commissioner that work on any building or structure or that any excavation, grading or filling operation is being prosecuted contrary to the provisions of this Code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.
- (2) **Unlawful Continuance.** Any person who shall continue any work in or about a building or premises after having been served with a stop order, except such work which is directed to be performed in order to remove a violation or unsafe conditions, shall be liable to a fine as prescribed in Section WPBCAE-hh.

w. Unsafe Buildings and Structures.

- (1) **Dangerous Building or Structure. (Defined).** For the purpose of this section, the term dangerous building or structure is hereby defined to include, but not be limited to, any building or structure which:
 - (i) As the result of its condition, is dangerous to the public and may cause or aid in the spread of disease or injury to the occupants of the building or structure or any neighboring building or structure;
 - (ii) As the result of faulty construction or any other cause, all or part of said building or structure is likely to collapse;
 - (iii) Due to faulty construction, age, lack of repair or other cause, constitutes or creates a fire hazard;
 - (iv) Due to a lack of doors or windows or inadequately secured doors or windows, the building or structure is available to disorderly persons who are not the lawful occupants thereof.

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- (2) **Declaration of Nuisance.** Any dangerous buildings or structures as defined above are hereby declared to be public nuisances. It shall be a violation:
- (3) To maintain or permit the existence of any dangerous building or structure in the city; and
- (4) For the owner, occupant or person in custody of a dangerous building or structure to permit the same to remain in a dangerous condition, or permit the same to be occupied while it is in a dangerous condition, after notification by the Commissioner of the Building Department to repair, vacate or demolish said building.

x. **Inspection and Report.** Upon the written complaint of any person, filed with the Building Department, that a building or structure is existing in violation of this section, a code enforcement officer shall conduct an inspection of the allegedly dangerous building or structure. The code enforcement officer shall prepare a written report to be filed with the Commissioner.

y. **Notice of Violation.** If the report of the code enforcement officer finds that the building or structure is in violation of this section, the Commissioner shall prepare a notice which contains a description of the premises, a statement of particulars in which the building or structure is dangerous, an order from the Commissioner to repair or demolish the building or structure within twenty (20) days from the date of the notice, and that a hearing will be held by the Commissioner within thirty (30) days. The time periods established in this section may be extended by the Commissioner upon a showing of good cause.

z. **Service of Notice.** Said notice shall be:

- (1) Served personally or by registered mail upon the owners, occupants, lessors, lessees, mortgagees and any other person having an interest in the building or structure;
- (2) Posted upon the building or structure;
- (3) Filed with the county clerk pursuant to Article 65 of the Civil Practice Law and Rules.

aa. **Hearing.** The Commissioner shall:

- (1) Hold a hearing, and take testimony and other evidence from the owner, occupant, lessor, lessee, mortgagee and any other person having an interest in the premises;
- (2) Make written findings of fact as to whether the building or structure is dangerous, as herein defined;
- (3) Issue an order based upon the findings of fact commanding the owner, occupant, lessor, lessee, mortgagee or any other person having an interest in the premises to repair, vacate or demolish the building or structure in accordance with the terms of the order.

bb. **Repair by Commissioner and Assessment of Costs.** If the owner, (or last known owner of record) occupant, lessor, lessee, mortgagee or any other person having an interest in the premises fails to comply with an order of the Commissioner to repair, vacate or demolish the building or structure, the Commissioner shall cause the building or structure to be repaired, vacated or demolished as the facts may warrant. The Commissioner of Building is

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authorized to direct the Commissioner of Public Works to solicit demolition bids and to enter into a demolition contract on behalf of The City of White Plains. The costs of said repair, vacation or demolition shall be a lien and shall be assessed against the land upon which the building or structure is located.

cc. **Emergency Measures.**

- (1) **Vacating Buildings.** When, in the opinion of the Commissioner, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life, or when any structure has fallen and life is endangered by the occupation of the building, or when any hazardous condition exists which would endanger life, the Commissioner is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. The Commissioner shall cause to be posted at each entrance to such building a notice reading as follows:

**"This Building is Unsafe and Its Use or Occupancy
Has Been Prohibited By the Commissioner of Building."**

and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

- (2) **Temporary Safeguards.** When, in the opinion of the Commissioner, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, or when any hazardous condition exists which would endanger life, the Commissioner shall cause the necessary work to be done to render the building or structure or part thereof temporarily safe, whether or not the legal procedure herein described has been instituted.
- (3) **Closing Streets.** When necessary for the public safety, the Commissioner may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings, or structure, and prohibit the same from being used.
- (4) **Emergency Repairs.** For the purposes of this section, the Commissioner shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (5) **Cost of Emergency Repairs.** The expenses incurred pursuant to this section shall be paid by the owner or occupant of the premises, or by the person who caused or maintained such unsafe building or structure. The Department of Building shall file among its records an affidavit stating, with fairness and accuracy, the items of expense and the date of execution of actions authorized by this section. The Commissioner may institute a suit in the name of the City to recover such expenses against any persons liable for such expenses or may cause such expenses to be charged and assessed against the property as a lien. A certified notice of such lien shall be mailed to or served upon the owner and persons claimed liable to pay the same, and a similar copy may be filed in the office of the Commissioner of Finance of the city, and may be noted on the Commissioner's records of liens or assessments against the property. Such liens shall bear interest and penalty of two-thirds of one per centum per month for each month or

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part thereof the same are unpaid after said filing of such notice of lien. Except with respect to a lien imposed for expenses incurred in demolition, nothing herein shall be construed as placing a lien upon the property which supersedes the lien of any mortgage on such property executed and recorded prior to the existence of a lien herein authorized.

dd. **Board of Survey.**

- (1) **Application for Survey.** The owner of a building, structure or premises, or the owner's duly authorized representative who has been served with an unsafe order and notice to make such premises or structure safe, secure and habitable or to take down and remove such structure shall have the right, except in cases of emergency, to demand the appointment of a Board of Survey if the owner deems such order to be unnecessary, improper or unreasonable. Such demand shall be in writing with a statement of the reasons thereto.
- (2) **Constitution of Board of Survey.** The Board of Survey shall consist of three (3) persons, one of whom shall be the Commissioner or an assistant designated by him; another shall be the owner or his legal representative, or a licensed professional engineer or architect, or a qualified builder designated by the owner; and the third shall be a licensed professional engineer or architect chosen jointly by the other two (2) members, or designated by a justice of the court of record in case of failure of agreement.
- (3) **Compensation of Board of Survey.** The third member of the board shall receive for his services a fee of one thousand five hundred dollars (\$1,500.00) to be paid by the applicant.
- (4) **Survey Procedure.** The powers and duty of the board of survey shall be:
 - (i) **Inspection of Structure of Premises.** To inspect the premises, building or structure and to confirm, modify or revoke the order of the Commissioner as may seem just and proper in the interest of public safety and welfare; and
 - (ii) **Determination of Repair Cost.** To determine the suitable cost of reconstruction, restoration or rehabilitation in the repair of an unsafe building, structure, or premises in case of disagreement or dispute.

ee. **Survey Findings.**

- (1) **Report.** The Board of Survey shall determine its findings, and submit a report in writing affirming or modifying the order of the Commissioner in whole or in part and recommending the remedial steps to be taken to render the premises, building, or structure safe.
- (2) **Method of Decision.** The findings and determinations of any two (2) members of the board shall be deemed conclusive, and certified copies of the report shall be filed with the Commissioner and with the owner or the owner's representative and shall be binding upon the Commissioner and all parties in interest.

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ff. **Code Appeals Committee.** The following procedures shall apply to the appeal of decisions by officials authorized by this Code to enforce Chapters A, B, C, D, E, F and G of this Code.

- (1) **Application for Appeal.** The owner of a building or structure or any other person may appeal from a decision of the Commissioner or Fire Chief concerning provisions of this Code covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the Appeals Committee. Application for appeal may be made when it is claimed that: the true intent of this Code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction can be used.
- (2) **Constitution of Appeals Committee.**
 - (i) **Membership of Committee.** The Mayor shall appoint an Appeals Committee composed of five (5) persons. Members of said committee shall serve for a five (5) year period or until their successors are appointed.
 - (ii) **Qualification of Committee Members.** Each member shall be a licensed professional engineer or architect, or a builder or superintendent of building construction, each of at least ten (10) years' experience, for five (5) years of which he shall have been in responsible charge of work; and at no time shall there be more than three (3) members of the committee selected from the same profession or business; and at least one of the professional engineers shall be a licensed structural or civil engineer.
 - (iii) **Absence of Members.** During the absence of a member by reason of disability or disqualification, the Mayor shall designate a qualified substitute.
 - (iv) **Director of Committee.** The committee shall select one of its members to serve as the Committee Director, and the Commissioner shall designate a clerk from the department to serve as secretary to the committee, or a public stenographer in lieu thereof, who shall keep a detailed record of all proceedings on file in the Department of Building for inspection.
 - (v) **Exemption of Members.** No member of the committee shall pass on any question in which the member is engaged as contractor or material dealer, or in the preparation of plans or specifications, or in which the member has any personal interest.
 - (vi) **Board of Appeals.** Wherever reference is made in this Code to the Board of Appeals, it shall be deemed to refer to and mean the body designated as the Appeals Committee pursuant to the Code.
- (3) **Compensation of Appeals Committee.** Compensation of appointed members of the committee shall be determined by the Common Council.

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(4) **Appeals Procedure.**

- (i) **Notice of Meeting.** The committee shall meet upon notice of the Committee Director within thirty (30) days of the filing of an appeal or at stated periodic meetings if warranted by the volume of work.
- (ii) **Public Hearing.** All hearings shall be public; and the appellant, authorized representative, the Commissioner and other city officials, and any other person whose interests may be affected by the matter on appeal, shall be given an opportunity to be heard.
- (iii) **Adjourned Meeting.** When five (5) qualified members are not present to consider a specific appeal, either the appellant, the Building Commissioner or their representatives may request a postponement of the hearing.

(5) **Decisions of Appeals Committee.**

- (i) **Action of Committee.** The committee shall affirm, modify or reverse the decision of the Commissioner or Fire Chief by concurring vote of three (3) members.
- (ii) **Resolutions of Committee.** Every action of the committee shall be by resolution and certified copies shall be furnished to the appellant and to the Commissioner or Fire Chief.
- (iii) **Determining Vote.** Failure to secure three (3) concurring votes shall be deemed a confirmation of the decision of the Building Commissioner or Fire Chief. The appellant shall be entitled to further hearing before a full board if there were not five (5) qualified members present when the vote was taken, except where the appellant did not request a postponement of the hearing as permitted in Section WPBC-1ff(4)iii.
- (iv) **Enforcement of Decision.** The Building Commissioner or Fire Chief shall take immediate action in accordance with the decision of the Board.

gg. **Controlled Procedures.**

(1) **Waiver of Examination and Inspection.**

- (i) **Under Direct Supervision.** When plans for the erection or alteration of a building are prepared by a licensed professional engineer or registered architect, which contemplate structural work or structural changes involving public safety or health and such plans are accompanied by an affidavit of the designer that the engineer or architect has supervised the preparation of the architectural, structural and mechanical design plans and that the engineer or architect will supervise or check all working drawings and shop details for the construction, and that the structure will be built under his field supervision and in accordance with the approved plans, and that such plans conform to all the provisions of this Code and the legal rules adopted under its provisions, and that all the material

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used in the construction will be controlled materials, the Commissioner may waive examination of the plans and field inspection of the construction and may issue a permit for the performance of the work.

- (ii) **Qualified Supervisor.** The licensed professional engineer or architect shall be qualified by experience and training in the particular field of construction involved in the building project under construction.
- (2) **Verified Reports.** Before issuance of the Certificate of Use and Occupancy for such building or structure, the following shall be required:
- (i) The licensed professional engineer or architect who inspected the erection of the building shall file a verified report with the Commissioner of Building stating that the architect or engineer has made regular and periodic inspections of the construction work, including critical construction components, and all controlled construction procedures and controlled materials as defined in this Code and in its referenced standards, for the purpose of determining that to the best of the architect or engineer's knowledge and belief the building as erected complies with the filed drawings and with this Code and other applicable laws and regulations governing building construction except as to the specific variations duly authorized under the provisions of this Code and as specifically noted in the verified report and cited in the Certificate of Occupancy.
 - (ii) The contractor who constructed the building or structure or the owner in lieu thereof shall file a verified report with the Commissioner of Buildings stating that to the best of the contractor's (or owner's) knowledge and belief, the building or structure has been constructed in accordance with the approved construction drawings and specifications, except as to the specific variations duly authorized under the provisions of this Code.
- (3) **When Required.** The Commissioner of Buildings may invoke any or all provisions of this Section and require from the owner both certified design and field inspection by a licensed professional engineer or registered architect for any project which in the Commissioner's judgment requires such controlled design and inspection by a licensed professional, by virtue of the project's technical complexity, difficulty, extensive size or other reason necessary to protect public safety and welfare.

hh. **Violation and Penalties.** Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved thereunder shall be liable to a fine of not more than one hundred fifty dollars (\$150.00), and upon a second conviction, where said violation occurs within 5 years of the date of the first conviction, such person or corporation shall be subject to a fine not less than two hundred fifty dollars (\$250.00) nor in excess of five hundred dollars (\$500.00) or imprisonment not exceeding fifteen (15) days or both such fine and imprisonment and each day such violations be permitted to exist shall constitute a separate offense, and upon any subsequent conviction, where said violation occurs within 5 years of the date of the first

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conviction, such person or corporations shall be subject to a fine not less than five hundred dollars (\$500.00) nor in excess of one thousand dollars (\$1,000.00) or imprisonment for a period not exceeding fifteen (15) days or both such fine and imprisonment. The owner or owners of any building or premises or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, or any lessee, architect, building, contractor, agent, person or corporation employed in connection therewith, and who may have assisted in the commission of any such violation shall each be guilty of a separate offense and upon conviction thereof shall be fined as herein provided. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

ii. **Repeal of Existing Ordinance.** An ordinance adopted by the Common Council of The City of White Plains on the 13th day of June, 1989 entitled: "An ordinance adopting a building code for The City of White Plains", and any and all amendments thereto, are hereby repealed.

jj. **Saving Clause.** No action, matter or proceeding brought by The Department of Building or the Department of Public Safety or any other department of The City, pending at the time this ordinance shall take effect, shall be prejudiced or effected by said repeal but the same may be continued, asserted, enforced or defended as fully and to the same extent as if such repeal had not been affected.

kk. **Administrative Liability.** No officer, agent or employee of The City of White Plains shall be rendered personally liable for any damage that may accrue to persons or property as a result of any omission or act required or permitted in the discharge of authorized duties under this ordinance.

ll. **When Effective.** This ordinance shall take effect immediately.